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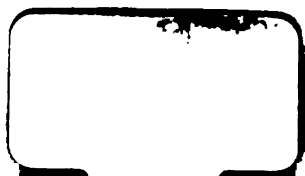
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DIARY
OF
THOMAS BURTON, ESQ.
&c. &c.
VOL. II.

LONDON :

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OF
THOMAS BURTON, ESQ.
MEMBER IN THE PARLIAMENTS
OF
OLIVER AND RICHARD CROMWELL,
FROM 1656 TO 1659 :
NOW FIRST PUBLISHED
FROM THE
ORIGINAL AUTOGRAPH MANUSCRIPT.
WITH AN INTRODUCTION,
CONTAINING AN
ACCOUNT OF THE PARLIAMENT OF 1654 ;
FROM THE JOURNAL OF
GUIBON GODDARD, ESQ. M.P.
ALSO NOW FIRST PRINTED.

EDITED AND ILLUSTRATED
WITH NOTES HISTORICAL AND BIOGRAPHICAL
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IN FOUR VOLUMES.
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1828.





PARLIAMENTARY DIARY.

&c. &c.

Monday, April 13, 1657.

Lord Whitlock acquaints the House that the Committee* attended his Highness on Saturday last, and his Highness was pleased to appoint them to meet his Highness again this morning at eight of the clock.

Resolved, that this House, after the rising thereof, be adjourned till to-morrow morning, eight of the clock.

* This Committee consisted of ninety-nine members; the Speaker, probably, being added to complete a hundred. They were chosen April 9th, in consequence of the following resolutions;—

“That a Committee be appointed to wait upon his Highness, in reference to what his Highness did yesterday propose in his speech, now reported to the House.

“That this Committee have power to receive from his Highness his doubts and scruples, touching any of the particulars contained in the humble Petition and Advice formerly presented; and in answer thereunto, to offer to his Highness reasons for his satisfaction, and for the maintenance of the resolutions of this House: and such particulars as they cannot satisfy his Highness in, that they report the same to the Parliament.”—*Journals.*

See also, “Monarchy Asserted to be the Most Ancient and Legal Form of Government, in a conference had at Whitehall, with Oliver, late Lord Protector, and a Committee of Parliament.” 1660. p. 1.

The managers in this Committee were nine, Lord Chief-Justices, St. John and Glynn; Lords Commissioners, Whitlock, Lisle, and Fiennes;

Resolved, that the debate upon the Report made by Mr. Secretary on Saturday last,* be adjourned till Wednesday morning.†

Tuesday, April 14, 1657.

Lord Whitlock gives the House an account of the proceedings of the Committee appointed to attend his Highness, the Lord Protector, yesterday,‡ and that his Highness appointed the Committee to meet with him again this afternoon, at three of the clock, at Whitehall, and that the Committee desire leave to meet this morning, in order thereunto.

Resolved, that the Committee appointed to attend his Highness, the Lord Protector, upon "the humble petition and advice," § do make a Report of their proceedings, to-morrow morning.

Resolved, that the House be adjourned till to-morrow morning, eight of the clock.||

Wednesday, April 15, 1657, being the first day of Term.

Lord Whitlock acquainted the House, that the Com-

Lord Broghill, the Master of the Rolls, (Lenthall) Sir Charles Wolseley, Sir Richard Onalow, and Colonel Jones. Their speeches, at length, with the Protector's replies and rejoinders, are preserved in the volume just quoted. See also *Parl. Hist.* xxi. 66—126.

* With this Report, giving "some account of a design lately discovered," Mr. Secretary "produced a book printed, called, 'a Standard'; and likewise the painted standard, which was taken, being a red lion couchant, with this motto, 'Who shall rouse him up?'"—*Journals*.

† The entry, for this day, is *verbatim*, as in the *Journals*.

‡ For his Highness's "answer at the Conference," See *Appendix*, No. 3.

§ See *Parl. Hist.* xxi. 129—142. It was voted, March 27, and first called, "the humble Address and Remonstrance." It was presented to the Protector, March 31. "The Speaker took this occasion to commend the title and office of a king in this nation, for several reasons; as that a king first settled Christianity in this Island," &c.—See *Mercurius Politicus*, No. 355. in *Parl. Hist.* xxi. 59.

|| This day's entry is *verbatim*, as in the *Journals*.

mittee attended his Highness yesterday, at Whitehall, but by reason of his indisposition of health, the meeting was appointed this day, at three of the clock in the afternoon, which being so, and the notes upon the former meeting being not perfectly transcribed, the Committee humbly pray some further time for making of their Report in that business.*

Alderman Foot, Lord Whitlock, and Colonel Matthews, moved that the Report from the Committee for the Conference with his Highness was not ready; and desired that they might have time till Friday, to bring it in, and so it was

Resolved, that the Committee do make their Report of their proceedings with his Highness, upon "the humble petition and advice," on Friday morning next.

The House resumed the debate upon the Report made by Mr. Secretary, on Saturday last.†

Sir William Strickland and Captain Hatsel moved, that you would go on with the debate about the plot, upon the Report that Mr. Secretary made on Saturday last. The order was read.

Colonel Briscoe moved, that this business being in order to settlement, you would go on with it.

Colonel Matthews. Look into the entry of the Report, and that will raise matter of debate.

The order was read again.

Major-General Disbrowe. Appoint a Committee to examine the book.‡. If such a design go without your zeal; such a number of men, to dare to attempt such a thing and not be punished, it may be mischievous.

Dr. Clarges. It is not safe, nor prudent to delay it; nor sounding well abroad. That will be a kind of countenancing of it. I desire a Committee may take the whole into consideration.

Mr. Bacon. I am not of that opinion, that the Parliament need proceed upon this business, till the great affair § is over. It is now depending before the council; I desire it may be deferred, or rather referred to them.

* Journals.

‡ See *supra*, p. 2. note.*

† Journals.

§ The question of kingship.

Mr. Highland. It is fit these should not go without their deserved punishment. It proceeds from a diabolical spirit. The persons are not considerable; but prentices and journey-men. It was carried openly in their meetings, exciting the people to it. Mr. Secretary knew it. They persist still in their confidence. I would have it left to laws which are full enough to try such wicked designs, that justly deserve it.

Lord Whitlock. Appoint a Committee to peruse the book, (it is tending to highest sedition and rebellion,) that it may be burned, as in cases of the like nature has been, and the persons may be tried by law.

Sir William Strickland and Lord Strickland. It is a very wicked and seditious book, and deserves to be burned. I desire a Committee be appointed to examine it, and that the persons be transferred to the Upper Bench for their trials.

I left the debate, upon Lord Whitlock's desire to withdraw, to write out the conference with the Protector; but it seems the House was adjourned till Friday, and no Committee appointed. All at a stand at ten.

Resolved, that the debate upon this Report be adjourned till Saturday next.

Resolved, that the House be adjourned till Friday morning next; and the House adjourned itself accordingly.*

Whitehall, post meridiem, at Three.

The Committee attended for above an hour in the Council Chamber, for his Highness's coming; but Lord Fiennes and Colonel Jones came and told us his Highness had got a cold, and was indisposed, so could not, without prejudice to his health, wait upon us at that time, but hoped he should be able to move in the afternoon. The same message was brought by the same persons the day before, and we were forced to return both times as wise as we went; which did strongly build up the faith of the Contrarians.†

* *Journals.*

† Those, probably, who opposed the Protector's assumption of the title of king.

Thursday, April 16, 1657, post meridiem.

In the Council Chamber, his Highness gave the Committee a meeting, where six of the grandees spoke very learnedly and soberly to the point of kingship; to reinforce their former reasons, viz. Lord-Chief-Justice Glynn, The Master of the Rolls, Colonel Jones, Sir Richard Onslow, Lord Fiennes, Lord Broghill, and Lord Whitlock. His Highness did acknowledge their reasons to be very weighty, and such as he could not instantly reply to, without shaming both himself and the business; so desired time to consider of an answer; and it was agreed, that the Committee should attend his Highness at the same place to-morrow afternoon, at three. —*Spero*. (See Book of Speeches.*)

Friday, April 17, 1657.

Lord Whitlock acquainted the House, that yesterday in the afternoon was spent by the Committee appointed to attend his Highness, in giving reasons to his Highness for his satisfaction; which his Highness declared to be weighty, and to require some deliberation, and desired some time, till this afternoon, to give an answer to them, and the Committee are appointed to attend his Highness again this afternoon.†

Lord Whitlock reported from the Committee of Satisfaction, that the Report was not ready; the Committee had not met to direct about a Report.

Mr. Speaker reported what *Lord Whitlock* moved.

Mr. Drake. You will not expect a particular Report till all is ready, and to the end that all may be perfected, I move that you adjourn till Monday.

Colonel Jones seconded the motion to adjourn till Monday to hear the whole Report together.

* *Monarchy Asserted*, pp. 44—80.

† *Journals*.

Mr. Speaker reported.

Captain Hatsel. I move, that, according to your orders, you take up the business of the design, and that your Report from the Committee be adjourned till Monday.

But the sense of the House being otherwise, the House and the making the Report, were adjourned both, till Monday.

Resolved, that the Committee do make their Report of their proceedings with his Highness, on Monday morning next, and that, at the rising of the House, the House be adjourned till Monday morning next.*

Lord Broghill moved, that the debate about the plot might not be left without a day, so Tuesday was appointed for that business.

Resolved, that the debate upon the Report made by Mr. Secretary on Saturday last, be adjourned till Tuesday morning next.

The House adjourned till Monday morning at eight o'clock.

Post meridiem, at Three.

The Committee went to the place appointed to have attended his Highness, but Lord Whitlock brought us word that he was not well, and that he would send to us to let us know what time he would be again waited upon. The Committee, thereupon, adjourned till Monday morning to the House, and then that Lord Whitlock report this to the Parliament.

Monday, April 20, 1657.

Lord Whitlock acquaints the House, that the Committee on Friday last, were at Whitehall to attend his Highness, who being not then in a condition of health, desired the meeting might be put off till this morning, ten o'clock.

Resolved, that the House be adjourned till to-morrow morning at eight o'clock.†

I was all the forenoon attending the trials between Mr. Clapham and his tenants, but the jury had, in a quarter of an

* *Journals.*

† *Verbatim from the Journals.*

hour, agreed in a verdict for the plaintiff, and the other trial will be as bad.

The Committee were to wait upon his Highness at the old place, and returned as unsatisfied as before: nothing but a dark speech; more promiscuous than before. See the book of speeches, * and the paper of exceptions, † which his Highness told them of.

Tuesday, April 21, 1657.

Lord Whitlock acquainted the House, that the Committee attended his Highness yesterday, who was pleased to speak something to what had been formerly offered, and had a paper, wherein he said were contained some other things which he had to offer to the Committee, and desired another time to be appointed for that purpose; and this day at three o'clock in the afternoon was agreed.

Resolved, that the House be adjourned till to-morrow morning at eight o'clock.‡

Mr. Trevor moved, that the power of the Committee might be enlarged, as to receiving his Highness's exceptions in writing; but this debate fell asleep I know not how, for I went up into the Speaker's chamber to write out the speeches, and to attend *Mr. Clapham's* second trial at the upper bench, against *Loy*; which, I believe, will go for the plaintiff again. The court rose before the verdict, and left it clear. I perceive the jury gave a private verdict afterwards.

I dined, amongst all the gentlemen, at the Mermaid with *Mr. Clapham*, and came to Whitehall, where the Committee had another long speech, as dark almost as before, with a paper of exceptions, which his Highness promised yesterday. See the book of speeches.||

* *Monarchy Asserted*, pp. 80—87.

† Unfortunately, it is not preserved in *Monarchy Asserted*. The authors of the *Parl. Hist.* (xxi. 89) regret that they could not (in 1760) procure this paper of exceptions.

‡ *Verbatim* from the *Journals*. || *Monarchy Asserted*, pp. 87—111.

Wednesday, April 22, 1657.

Lord Whitlock reported, that the Committee did yesterday attend his Highness, who did then offer unto them a paper, containing several scruples about several things in the *Petition and Advice*: and that a Committee are preparing a Report of the whole business together.

Resolved, that the House be adjourned till to-morrow morning at eight of the o'clock.

Thursday, April 23, 1657.

Out of the Journal book for this day.

A Bill enabling *Hamlett Latham*, and other persons therein named, to sell certain lands of the said *Hamlett Latham*, for payment of his debts, was this day read the first time, and upon the question, ordered to be read the second time on Monday morning next.

Ordered, that the Lords Commissioners of the Great Seal, the Lords, the Judges, and the Lawyers, members of this House, be sent for by the serjeant attending this House, to attend the service of this House.

The Lord Commissioner Whitlock, reported from the Committee to wait on his Highness the Lord Protector, according to an order of the ninth of this month, the proceedings of the said Committee therein; and the substance of his Highness's speech to them, on the 21st of this month; and two papers delivered to the Committee by his Highness: which the reporter read, and afterwards were read by the clerk.*

Colonel Jones moved, that the exceptions might be read in part, and that an explanatory Bill might be prepared upon the debate, which is usual.

Mr. Nathaniel Bacon. I move that you would approve of what your Committee has done. They may bear a reproach

* *Verbatim*, as in the printed *Journals*.

afterwards, as if they had not done their duty. I would that the House should be gratified by their faithfulness.

Mr. Bodurda. I second that motion. It is very fit that the Committee's faithfulness should be approved of.

Mr. Speaker moved, that the House would also approve of their words as well as their actions.

Colonel White. You are not ripe for such approving till you know what it is: the Committee being the major part of the House, what they agree to, must conclude us. So we approve we know not what.

Lord Whitlock. I hope your Committee has given you no such occasion to suspect their faithfulness: I told you I had no Report in writing, but only some notes for my own memory, and I hope you will approve it.

The question put to approve of the proceedings of the Committee in this business, there was one *No*.

Mr. Speaker said, it may be it was a mistake; I did not think there had been a *No*.

Mr. Bampffield moved, that the Speaker ought not to have reflected upon any member for giving his *No*. It was against the order of the House, and every man has freedom to give his *No* or *Yea*, without reprehension.

(It seems it was *Mr. Bampffield's No*, which made him seem more concerned.)

Mr. Speaker. I hope you will vindicate your chair. I did not mean, it was a mistake in any man giving his *No*, but that any man said there was a *No*, that was the mistake. I did not reflect. Besides, that gentleman ought not to have spoken, till the question was put again.

Mr. Drake. That exception needed not to have been taken, for there was no reflection, and the Speaker might rectify such a mistake.

Colonel Matthews. Any might give his *No*, without a mistake, and it ought not have been so said of any man.

Mr. Speaker put the question the second time, and so this heat ceased.

Resolved, that this House doth approve of the proceedings of the Committee in this business.

We were growing a little angry, and indeed, (as I understood it,) the Speaker was more to blame.

Colonel Jones said it was the first time that ever he heard a debate after the question was once put in the negative.

Altum silentium for a while.

Mr. Fowell seconded *Mr. Bacon's* motion to read the paper in parts, and so it was.

Mr. Secretary. It is not proper to debate any thing in the Petition, but to have an explanatory Bill.

Mr. Bacon. It is not proper to debate any part of the Instrument, but to do it by another Bill.

This was against *Mr. Speaker's* directions, who would have the article read, and see how it agrees with the paper now read.*

Colonel Chadwick moved that the words "signal testimony," were so general, that they had need to have explanation.

Mr. Speaker. That gentleman mistakes the question. It only relates to Scotland, and not to England, for the rules are stricter for England than Scotland.

Mr. Pedley. Read your votes, and see their coherence with the Instrument, and so order your way for an explanatory Bill.

Mr. Speaker was going to put the question to exclude all members for Scotland that have not borne arms for the Parliament or his Highness: but it was moved by

Colonel Jones, to add these words, "or have given signal testimony," &c.

Major-General Goffe. I move that if they have aided, advised, assisted, or abetted, before 48, they may be excluded: for that provision is made for England.

Colonel Sydenham. To call this addition of yours an explanatory Bill is not proper; for the Petition itself is not a Bill till his Highness consent. So I would have your amendments in the body of the Bill. It will not be honourable for

* For the exclusion of "those Scottish men," &c. "who invaded England, unless they have since borne arms for the Parliament, or otherwise given some signal testimony of their good affection."

the Parliament to amend a thing the very day that it has its birth; nay, before that which you amend has a being. It is more for the honour of the Parliament, and the thing too, to have the amendments part of your Bill, and not otherwise.

Mr. Bodurda. I think the explanatory for Scotland, relates only to their testimony since March 1648.

Mr. Disbrowe. Such as have altered their judgment, indeed, and are come over, you would not exclude them. That invasion was by vote of Parliament, and the whole nation was engaged. There were some also at Worcester. But such as are your friends, I would have them restored. Such as are your enemies (indeed) exclude them: to this purpose, refer it to a Committee to prepare a clause.

Dr. Clarges. If you exclude all, you will leave few that have not been engaged: some, even of them, have done you good service; and those that are your friends, indeed, I would not have you make enemies of them, nor yet take in those that are still your enemies.

Mr. Bond moved that it may be explained what is meant by *signal testimony*, and that the test may be the same for Scotland and Ireland as for England.

Sir William Strickland. Do not divide it. Your bearing arms, and giving signal testimony, let them go together; otherwise you leave them under a cloud that have otherwise done good service, though not in arms. I would not have them shut out, but a way open for them.

Captain Hatsel. You are not ripe for that question yet. This has not the efficacy of a Bill, it is but advice; and explanatory is not proper to advice. I would have those excluded that contributed, or aided any way, by money or otherwise, which were as bad as those that actually engaged in the invasion.

Lord Strickland. You will not capacitate Sir Marmaduke Langdale,* and those that came in with him, more than you will those of Scotland.

* "The Scots," says Ludlow, in 1645, "making all possible preparations to raise an army for the restitution of the King, Sir Thomas

Mr. Speaker. This is a Scotch article, and relates not to England.

Resolved, that it is necessary to exclude all those Scottish men, and other persons, who invaded England under Duke Hamilton, except they have since borne arms for the Parliament, or his Highness the Lord Protector: or have otherwise given signal testimony of their good affection.

Colonel Jones. You may safely put the second question, to explain what shall be meant by "signal testimony," which your Committee may explain if they think the words be not full enough.

Mr. Disbrowe. The words "signal testimony" are so general, that they had need be explained, which may be referred to the Committee.

Major-General Disbrowe. It may be explained by your Committee, and it is indefinite to all, as well in England, Scotland, and Ireland.

Mr. Godfrey. Now you have inserted the word *signal*, it is fit you should explain, as it is more obscure, that all may avoid their own danger; otherwise neither the choosers nor the chosen, shall know whether they be out of danger; for it is extensive and indefinite to all, and the words *testimony* and *signal*, are both alike doubtful.

The Master of the Rolls. No doubt, while the Parliament are judges of what "signal testimony" is, it will be well enough understood; but the danger is, how the electors or elected shall know when they are free. Haply men may go as far in any thing you command them, and yet may fall short of what you may interpret to be "signal testimony." I like it very well that we shall not have that stop at the door, as his Highness is pleased to except against. I would have you refer it to a Committee to explain the words.

Mr. Thistlethwaite. The Parliament is the best inter-

Glenham and Sir Marmaduke Langdale went to Scotland, to join with them in that enterprize, and to draw what English they could to promote the design."—*Memoirs*, i. 242.

preter of "signal testimony." I would not have it committed.

Sir William Strickland. I move that it may be explained, for the safety both of electors or elected, what shall be meant by the words; for *signal* is a note of some eminent service, which some men, haply, cannot challenge without breach of modesty. I would, by all means, have it certainly defined.

Colonel Stewart. I agree with those that would have the Parliament the only judges of "signal testimony;" yet would have it referred to a Committee, to bring in a clause to put a characteristical mark upon them.

Resolved, that it be referred to a Committee, to consider of some explanation to be made, touching "signal testimony," and to offer it to the House.

The second clause in the paper was read.

Colonel Philip Jones moved that the article for Ireland might be referred to the Committee to explain that also, which was resolved accordingly, and so the first part was over.

Resolved, that this clause be referred to the same Committee, to consider thereof; and, in case they find cause, to bring in an explanation to be made upon this clause.

The third clause in the said paper was read, that about the preachers.

Colonel Rouse. I move that you would distinguish between martial preachers, (that as they took it up, so they may lay it down,) and those that are obliged to preach.

The Master of the Rolls. We never intended to exclude the colonels that preach, but if they came into the church publicly to preach. That which you intend is, public lecturers, that undertake public preaching to their congregations; that undertaking that, they need no other employment: not that it might extend to those that preach to their families, and to their soldiers. You know who said, "Who is sufficient for these things," and, having that employment, they need no other.

Sir William Strickland. The intention was, for those that take the office upon them not to be sullied with temporal

things. He has time little enough to study, so needs no other employment. It is true, in the Sabbatical sense, every exhortation or reproof of a master or officer, to his soldiers or servants, is preaching; but not as in this sense. It is meant the function and office of preaching. They were distinguished formerly by clergymen, I wish they were so distinguished still. "Public Preacher" is an officer, and he should not be dishonoured nor distracted with any other thing. If he have put his hand to the plough, let him not take it back again. I hope it will never be said here, that public preaching is not a function. I think, if all the rest of your Instrument be good, this is well enough expressed, without further explanation.

Major-General Goffe. It is not thought that it is intended to exclude the officers of the army by this, but the intent is, not to bar the Gospel liberty of freedom of speaking in the congregations, as certainly every member has that liberty. The Parliament having held forth the spiritual liberty, I move that you will explain it thus, that there may not be a dust arise afterwards against public preachers; but that it may only extend to such as have public maintenance, or have pastoral charges.

Mr. Speaker. If a man be a chaplain in a nobleman's house, or preaching in a congregation, you cannot call this public maintenance. This should be explained.

Colonel Philip Jones moved, that it might be such as have maintenance for preaching, and to leave out the word *public*. For it is certainly intended to deprive that man that has a designation to that work.

Mr. Godfrey. There may come under this designation, persons that have neither maintenance nor pastoral charge. I would have the word, *congregational*.

The question was put in the affirmative, to exclude all that have pastoral or congregational charge.

Mr. Highland. It is too large, to exclude all that have any congregational charge. If members of a congregation, in doing their duty, do speak in their turns, to the edification of

the rest of the body, (sometimes the pastor may be sick or absent,) and if they be not persons by way of office, you would not generally exclude them.

Mr. Bond. If you add the words *pastors* or *teachers*, you will comprehend all, and explain that article.

Major-General Goffe. It is too exclusive, to all that have congregational charges.

Colonel White. You intend not every person that exhorts publicly or privately from vice to virtue, but such only that have a special designation to that work. The word *maintenance* will supply all, seeing you have left out the word *public*.

Lord Strickland. If you put it *pastors* or *teachers*, you will exclude all Fellows of Colleges.

Resolved, that the words "public preachers," in the third paragraph of the fourth article, be explained thus; "such as have maintenance for preaching, or are pastors, or teachers of congregations."

The fourth clause in the paper, being read; about Committees for trying the members.

Colonel Philip Jones. Leave it out and impose a fine, and then you must take off your order to bring in a Bill for appointing the triers.

Lord Strickland. The fine will not serve the turn, for if there be no check, there may as many members come in as may outvote the rest, and the fines shall signify nothing. Again, your fine must be great, else it will not signify.

Colonel Cooper. A way must be taken for levying this fine, otherwise it will signify no more than the setting penalties upon persons that have new titles of honour, since the Seal went away.

Mr. Bond moved, that the fine might be 1000*l.* and that the former order for the triers might be taken off.

Mr. Bacon. Have a fine and triers too, according to your former order, and let the fine be 1000*l.*

Sir John Barkstead. Determine in your question what the fine shall be, and do not leave it a blank.

This motion was thought as young as the member, this being the first time that I saw him in the House, since the first day of the Parliament.

Mr. Godfrey. First take off your order for the Bill to be brought in for the triers : otherwise, you do not clearly lay it aside.

Mr. Speaker. The triers are to be by Act of Parliament : so that if no such act be made, you have the triers sure enough.

Mr. Bampfild. Triers are not well laid aside by a bare implication ; unless you say that, instead of triers, you do impose this fine, or something to express it. There is a declaration that there shall be such, and you make no mention of your taking it off. So that the supreme magistrate may, by force of that, self-appoint, or, at least, claim of the Parliament to appoint, triers.

Mr. Trevor was glad to hear his Highness's resentment of that clause about the triers. He wants, therefore, to have it expressed that you do lay it aside. It is not sufficient to lay it aside by implication, but it should be declared to the public that your intention is to take off the triers, otherwise it will stand so declared in your Instrument, without any explanation.

Lord Strickland. Unless you give it to be tried by action of law, this fine will signify little.

Mr. Bacon. There are degrees of crimes, and it will be hard to impose the same fine for all offences. But let the fine be according to the quality of the crime charged.

Major-General Disbrowe. I move that you would make no distinction of the crimes, for the honour of your House, and that the fine exceed not 1000*l.* nor be under 500*l.*

Sir William Strickland. There needs no reference to the taking off the former order for the triers ; it falls of itself. I desire that the fines imposed may be as is moved ; viz. not above 1000*l.* nor under 500*l.*

Mr. Bodurda. It is a breach of the privilege of Parliament highly, to bind up their hands as to the fines ; it being arbitrary : and you ought not to limit the Parliament.

Mr. Goodwin. It is not Parliamentary to set down the fine. It is a breach of the privilege of Parliament. Rather leave it to the discretion of the Parliament, which is more proper, and you may say so in your question.

Mr. Bond. This fine-setting is no breach of privilege; but only *in terrorem* to them that shall presume to come in, not being qualified.

Mr. Trevor. I move, that the sum may be certain, viz. 1000*l.*, and not to limit the Parliament. This is but *in terrorem*.

Mr. Thistlethwaite. I would not have them punished twice for one offence; but let the other be clearly taken off, as to the order for the appointing of triers.

Mr. Foxell moved, that it might be inserted in the question thus, viz. instead of triers, that a fine be imposed of, &c.

But that seemed to Mr. Speaker to be another question, and so was laid aside till the other question passed.

Resolved, that the sum of 1000*l.* be imposed upon all persons unqualified, that sit in the House of Commons.

Sir William Strickland. I move, that you would not let the *other House** sit free from a fine, if they be not qualified. I would have 2000*l.* upon every member of that House, as you do 1000*l.* upon every one of us.

Colonel Phillip Jones. This is not before you, for the case is different. The members of the House of Commons are chosen by the people, and it is fit there should be rules to try such by, but those are not so. You know how they are to be named and chosen.

Mr. Godfrey. I move, that it may be expressed, that instead of appointing triers, the fine be imposed; for it is not so laid aside but the supreme magistrate may resume it. So I would have it explained as it has been moved.

Mr. Bacon. I doubt if you put this question, you alter some part of "the Petition and Advice," which is a business of great weight to be moved at this time of the day after twelve. I desire you would adjourn.

* The sixty-one persons, forming this substitute for a House of Lords, were not summoned to Parliament till the December following.

Mr. Secretary. If you make an order to withdraw your power from the Committee that were to bring in the Bill, you will do as much as is needful.

Mr. Speaker was going to put that question, to report something on the question, about taking off tryers.

Mr. Bacon moved, that the question might be put, whether the question shall be put or no.

Mr. Speaker. The Committee are not appointed, and so you can not properly withdraw any power, where no power was given.

Some cried "adjourn, adjourn."

Mr. Thistlethwaite. It is not proper to move to adjourn, after you have debated a business for an hour together. I desire the question may be put.

Colonel Philip Jones. There is no danger of putting it in the question, that, instead of tryers, a fine shall be imposed, &c., for I apprehend not that, by this debate, you ravel into any part of the Petition and Advice, nor can it be otherwise understood than explanatory.

Lord Broghill. It is not safe to ravel into any part of the Petition; and it is sufficient to lay it aside by an implicit vote. I know not how to offer an expedient, unless you shall give a *supersedeas* to your Committee, not to proceed further upon your former order.

Colonel Stewart. I think I shall offer an expedient in this business. Let your Committee bring in a Bill for tryers, according to your former order, and then lay the Bill aside.

This motion was not very wisely resented. It is like make work and mar work; below a Parliament.

Lord Whitlock. I doubt, if you loose that link, you give occasion further to ravel into debate upon the Petition: for you repeal that part of the paper which says, tryers shall be appointed. I would, therefore, have you lay it aside, by an implicit vote; and that, in my opinion, will be sufficient.

Mr. Bampfild. I move, that it may be expressed in the question, that instead of the tryers, the fine shall be imposed.

It is clear that both remains, unless you take it off, which cannot be done implicitly. I desire it may be explained.

Resolved, that a Bill be brought in for imposing a fine of 1,000*l.*, upon every person who shall sit as a member of the House of Commons, in any future Parliament, being disabled by, or not qualified according to the qualifications in the humble Petition and Advice; and for their imprisonment until such fine be paid.*

Several members called to adjourn.

Colonel Philip Jones moved, that the House might sit to-morrow, both forenoon and afternoon. Others said it was time enough to move that to-morrow.

Resolved, that this debate be adjourned till to-morrow morning, eight of the clock, nothing to intervene,† and the House adjourned immediately.

I thought to have found a larger report in the journal, for the clerk took it.

I went to dine at the Mermaid with the Countess's Jury, who brought in another and a raging verdict against the poor tenants, at the Common Pleas bar, in affirmance of the private verdict they had given, the afternoon before, to Baron Atkins, which vexed Atkinson. Some of the Jury, as they say, were surprised into it, thinking that they were only to find the reasonableness of the fine, and not the seizure. It seems Dawes, the foreman, and two or three more, circumvented the rest. I think, by these three trials, we may bid adieu to Westminster—‡ juries at the bar. I was, in the afternoon, with my uncle, and got old Mr. Thwaites' affidavit about Mr. Blenkinsop's business and mine.

Friday, April 24, 1657.

Out of the Journal.

Resolved, that it be recommended to the council to offer it to his Highness the Lord Protector, that his Highness will be pleased to grant a privy seal to the Commissioners of his

* *Journals.*

† *Ibid.*

‡ MS illegible.

Highness's Treasury, to pay unto Edward Birkhead, Esq. the Serjeant-at-arms attending the Parliament, the sum of 240*l.* in discharge of a Bill hereunto annexed, for his disbursements for the service of the Parliament, and their Committees; and for the payment of fourteen servants attending the House, and the several Committees, from the 17th of December, 1656, to the 17th March following. And likewise thereby authorizing the said Commissioners of the Treasury, from time to time, to pay unto the said Serjeant-at-arms, what shall be due unto him for his allowances, respectively and proportionably, for the future, during the sitting of the Parliament.

Ordered, that the Bill for the payment of tythes shall be read upon Monday next.*

I came in late.

Sir Richard Onslow moved, that a petition might be read for one Mrs. Bickley and Francis Burghill, touching an indictment against them for lodging one Hooper, for coining, &c.

The humble petition of Anne Bickley, and Francis Burghill, was read.

Resolved, that a Bill be brought in by *Sir Richard Onslow*, for pardoning the petitioners for treason, as in the petition is desired.†

Mr. Bond moved, that the mace might be sent for the judges and the lawyers, and if they come not without delay, that the House should reprove them.

There was no question upon this, but by the direction of the Speaker, the serjeant went out with the mace. Lord Chief Justice came in, immediately before the mace.

Mr. Solicitor Ellis came in, which was the first time he was here since the sad accident of his leg broken. *Sir Thomas Pryde* ‡ came in the other day.

The order of the day was read.

The House resumed the debate upon the first of the papers reported yesterday.

The Speaker opened it, and said, you left the debate about taking off tryers.

* *Journals.*

† *Ibid.*

‡ *M. P. for Rlegate.*

The fifth clause in the paper being read, about appointing and naming members of the other House, in case of death or suspension,

Colonel Philip Jones moved, that it might be explained, that his Highness shall name those members in such cases.

Mr. Godfrey moved, that the former debate about additions to the question might not be passed over; being a business of weight, it ought to be cleared.

Mr. Thistlethwaite seconded that motion.

Sir Richard Onslow. This being left unexplained, it standing as a directory, the chief magistrate may appoint tryers, if you appoint none; and so there shall be a fine upon the members, and tryers too. I desire that it may be expressed what it shall be, instead of tryers, on what behalf.

Major Audley. I move to know, whether you will take off your vote to adjourn, that I may speak more freely to this question: otherwise I cannot speak to it.

Mr. Nathaniel Bacon. That which is moved is very material; for it puts things into a loose way, and leaves the chief magistrate to choose, and leave what part of the Petition he likes. I would have this done (as the best way) by *articulus super chartas*, which is a safe way. But as it is moved, I cannot, with a safe conscience, consent to let loose the debate into the parts of the Petition and Advice.

Mr. Speaker moved, that it would be better to bring it in by way of coherence, after the Bill is brought in, yet it was

Resolved, that the penalty mentioned in the last vote yesterday, shall be instead of the Bill appointed to be brought in, for commissioners to be triers in that behalf.*

The debate began about the nomination of the members of the other House.

Mr. Bond. The chief magistrate is fittest to name those members, and the House to approve. There was such a clause at the Isle of Wight, that the king should not have liberty to bring in Lords at his pleasure.† When the Earl of

* *Journals.*

† *Rushworth* mentions, on the authority of "Letters from Newport, October 17, 1648," the king's having "consented to the proposition,

Strafford's trial was, the king took twelve lord's sons out of this House, and made them barons, * purposely to overpower the rest, which the Lords took ill.

Mr. Secretary. Comparing the beginning and the latter end of the article, you may clear it without a vote; and only declare, that it is your intention, that as to this doubt, the nomination shall be in the chief magistrate.

Colonel Philip Jones agreed, that such explanation would serve the turn, without a vote.

Mr. Godfrey. I never understood that was the declared and known sense of the House. Though you give the nomination to the now chief magistrate, out of the present confidence you have of the single person, that does not follow, that the single person should name them still. The recommendations of great persons are equivalent to commands. This will be the way to set up another House quite contrary to the interest of the House of Commons. You intend them a balance, a medium between the House and the single person. Otherwise, of necessity, they must adhere to the interest of the single person, and so cease to be that balance and medium that they were intended for.

Resolved, that the House doth declare that the nomination of the persons to supply the place of such members of the other

that Peers made since Edward Littleton, then Lord Keeper, deserted the Parliament, and surreptitiously conveyed away the great seal, on May 21, 1642, shall not sit in Parliament, without consent of both Houses; and that all honours conferred since May 20, 1642, when the king, seduced by evil counsel, intended to raise war against the Parliament, be declared null and void." *Hist. Col.* (1708) vi. 507.

* I have not met with any historical authority for this charge against Charles. There were only seven Commons "created Peers," before Strafford's condemnation. See *Parl. Hist.* ix. 8. The number of Peers, at the opening of the Long Parliament, November, 1640, was 150, including 26 Prelates.

Whitlock relates, "May 5, 1642," that "of forty-five Lords, twenty-six voted the Earl guilty of high treason, upon the 15th article, for levying money in Ireland, by force, in a warlike manner; and upon the 19th article, for imposing an oath upon the subjects in Ireland."

House as shall die, or be removed, shall be by the chief magistrate.*

Major-General Goffe moved to explain also, who shall approve of these persons, which was doubtful in the article, which only relates to admitting them ; but nothing was done.

The sixth clause in the paper being read, about ascertaining the revenue,

Mr. Godfrey moved that the article to which this refers might be read.

Mr. Bacon. Suppose his Highness did but only put this to us, to take care for the future. It cannot be done in this, but there must be a Bill for this purpose. I desire it may be left to the Committee.

Mr. Speaker agreed it was not fit to insert it here, but in a particular Bill ; and that the same might be referred to a Committee, as also that of temporary supplies.

The Master of the Rolls. First agree upon the general heads, how the revenue shall arise ; as the excise, customs, and public revenue, and then the Committee may reduce this to form and certainty, and make it handsome.

Mr. Noel. Your present revenue is, most of it, out of trade, which is uncertain : this will fail you, if you lay too great a force upon trade. I may compare it to a cow, that may give a great deal of milk, if she be well fed and tenderly used, and none offer violence to her, lest she hold up her milk. And to this purpose, I desire that you would look into what the revenue comes to, and debate it in a Grand Committee, how to make this up, and how to ascertain it.

Mr. T——.† This business is not ripe for a Grand Committee, or any other Committee. If you please, say that you have already Bills prepared for raising this revenue, and you have declared it, you will raise such a revenue. Likewise, for the additional charge, and for the carrying on the Spanish war, you have declared to raise 400,000*l.*, and you

* *Journals.*

† Blank in MS.

have Bills in readiness, and you have put it in a way, and shall prosecute it effectually and readily.

Sir Richard Onslow. There is but 1,800,000*l.* paid, and the charge comes to 1,900,000*l.* This is the full charge, if it may not be retrenched as to the charge of the army. You have provided for the Spanish war till October next, by the 400,000*l.*, and it may be, in the meantime, that it may cease. For that of continuing the 600,000*l.* for some time, I shall not speak to the time; but, if you think fit, a land tax may be laid for that, which will come to 50,000*l. per mensem*, in England, Scotland, and Ireland. I shall leave that of the time to your further consideration.

Mr. Thistlethwaite. It is your silence makes me stand up. It is a very unacceptable service, the business of raising money. I could wish that the Government might be so sweetened, that, if it were possible, no land-tax might go along with it. But since it must be, one time or other, I desire you would take up the debate for continuing 50,000*l. per mensem*, to make up the 600,000*l. per annum*, and for as short a time as may be.

Mr. Speaker. That about 600,000*l.* is in another paper, so comes not within the debate upon this article.

Colonel Philip Jones. But it is an explanation of that article, so, proper enough to this debate.

Sir William Strickland. I am sorry to hear any land-tax mentioned here. The people would never have chosen us, if they had thought we would have ever moved that. Nothing is so like to blast your settlement, as a land-tax. Pardon me if I speak confusedly: any man will justify my distraction in this. If we must have a land-tax, let us not lay it, till we have necessity. We have laid long enough under a land-tax. We must sell our lands to the Spaniards, who have golden mines. I desire a Committee may find out some other way, and would rather have it by the old way of subsidies.

Mr. Nathaniel Bacon. This is providing supplies over the heads of another Parliament. We have made general provision already, by additions to the land-tax, and by the

Bill for the buildings,* which will raise a good sum. This will serve this year.

Mr. Godfrey. It is needful for you to make a further enquiry into the cause for this additional sum, upon a bare proposal from without doors. The dangerousness of the con-

* "February 13, 1656-7." A Committee proposed, and the House resolved, "That there be a fine imposed for every building, which hath been erected or continued since the 24th day of March, 1620, upon a new foundation, in the suburbs of the City of London, and within ten miles thereof. That the fine to be imposed on these new buildings, shall be a year's rent, at the true improved value of the houses; and that there be a clause in the Bill, prohibiting buildings for the future, under severer penalties."—*Journals.*

The following proclamation, issued previous to the meeting of this Parliament, will serve to show the alarms then excited by any proposal to extend the metropolis:—

"Whitehall, August 11, 1656.

"Upon consideration of the humble petition of the Society of Lincoln's Inn, and of divers persons of quality, inhabitants in and about the fields, heretofore called by the several names of Purs Field, Cup Field, and Fitchet's Field, and now known by the name of Lincoln's-Inn-Fields, adjoining to the said Society, and to the cities of London and Westminster, and of the inhabitants of other places adjacent to the said fields, whose names are contained in a schedule unto the said petition annexed, on the behalf of the Commonwealth, themselves and others, the inhabitants, setting forth, among other things, that divers persons have prepared very great store of bricks, and other materials, for the erecting of new buildings upon the said Fields,

"Ordered by his Highness, the Lord Protector, and the Council, that there be a stay of all further buildings, as well in Lincoln's-Inn-Fields, as also in the fields commonly called St. James's Fields, upon any new foundation, and likewise of all further proceedings in any such buildings already begun; and that it be recommended to the Justices of the Peace for the city of Westminster and liberties thereof, to take care that there be no such new buildings, nor proceeding, in any such buildings already begun.

"Ordered also, that it be recommended to his Highness's Council, learned, to give order for a speedy and effectual prosecution to be had against such persons as have erected, or are now erecting, any new buildings upon new foundations, in or about the cities of London and Westminster, by indictment, or otherwise, as they shall judge fit; and that Mr. Gabriel Beck do take care of this business, and of such prosecution to be had accordingly."—*Public Intelligence*, No. 45, p. 770.

sequence ought to be considered, to take your rise barely from the paper recommended by his Highness; upon no other ground or foundation to raise such a sum, without looking into the state of your affairs. A very ill precedent, that a single person hereafter may come with such proposals.

So he moved, not to proceed upon this debate, *ex concessio*, but to order a Committee to examine the state of the revenue and the charge.

Mr. Croke. I am much of that gentleman's opinion, not to spend the people's money, and not know how. But we have had both the charge and the revenue already before us, and it does appear that it surmounts the present revenue of 1,300,000*l.*, by the sum proposed, 600,000*l.* They that proposed this, without a land-tax, know how to raise it. For that of the sum to be added, haply, another way may be found out. But now that you have declared you will raise such a sum, the engagement lies upon the nation to do it one way or other.

Altum silentium for a good while.

Mr. Cary. I speak to the order of your proceedings. First, agree to the sum, and the time certain, and then agree to the manner how you will raise it. And, if you please, I shall propose the sum may be 600,000*l.*, and the time to continue for three years.

Colonel Philip Jones. This is not a thing that is new. You know what is your charge and the revenue. You have had it in debate, and considered by Committees. If you please to put the question either for 50,000*l. per mensem*, or 600,000*l. per annum*, all comes to one; and for the time and the manner of raising, you may consider it afterwards.

Mr. Godfrey. A word to your question; that the penning of the question may not leave it as a standing rule, that, 600,000*l. per annum* shall be always the temporary supplies. So I would have it expressed, for the present occasion, and not under the title of temporary supplies.

Mr. Bodurda. It should not be expressed as temporary supplies, but as for the present occasion, and so long as the Parliament shall think fit.

Mr. Fowell. It should be rather expressed at 50,000*l. per mensem*, than at 600,000*l. per annum*; and the first month to begin at Midsummer next, and to continue till the next Parliament.

Colonel Briscoe. I know there is occasion for supplies; but would have it first enquired in a Parliamentary way what the charge is, and what the revenue.

Mr. Bacon. I am against the words "present supplies," for we have provided for the present charge already.

Mr. Bampffield. I think it is strange, that men should be so soon satisfied about this additional sum. There was a great debate before the other sum of 1,800,000*l.* was granted. It will maintain 40,000 men, as was moved then. There was no more demanded, and one argument was affirmed by more than one, and granted by many, that that was the reason why this should be settled in perpetuity. Because the present charge upon us is double; I must take this for granted, those things are clear to the House. Again, this is clearly against what you have resolved, as to the power of Parliament. If you call Parliaments by the Triennial Bill, another shall be in September next; or if you go by the Instrument, it will be in October.

I would have no more voted. This proceeds from a distrust of Parliaments. We shall be an honourable Parliament, and yet be trusted with nothing. If there be a real necessity, no doubt but Parliaments will provide, and have done it, but not according to the lusts of the supreme magistrate. There is nothing in this but *sic volo*.

This is not the way to settlement, to lay such a yoke upon the people as our forefathers never had. People will study to have their necks from under the yoke. I think you have granted too much already. This is the way to lay Parliaments low. If the late king had had such an army, we had had another family, and the Long Parliament had never done what they did. This is my greatest grief that you have done as to this, more than ever that did.

Mr. Trevor. You have voted this in effect, only you have not ascertained it; which his Highness now proposeth that

you would make certain. I hope there is no such danger of laying Parliament low, or bringing in another family, or the like of those things that that gentleman moved.

Resolved, that as to the making certain of the revenue of 1,300,000*l. per annum*, the House hath already put it into a way : and shall effectually prosecute that way to make it certain and effectual.

Resolved, that the sum to be raised for temporary supplies, shall be 600,000*l. a-year*, for such time as the Parliament shall declare.

The proposals about account to be given by the Treasurers were read.

Mr. Bacon. I desire you will put that, and there will be no negative upon it.

Mr. Speaker. I hope you will have your Treasurers receive it first, before they account.

Lord Whitlock. It is fit your Treasurers should account, and it is for their ease, that receive your monies, to be acquitted. But, as yet, you have not directed how your money shall issue. As thus, that there shall no more money but 300,000*l.* be paid to the Government, and 1,000,000*l.* to the forces ; and the temporary supplies to be issued out, as you think fit to declare.

Mr. Godfrey. To the order of your proceedings. Naturally you ought to debate for what time the sums you have voted shall continue. I would not have you look over a Parliament, if you have any certainty to judge by, for your next Parliaments. It is not fit to keep two directories a foot for Government. If I knew a rule for it, I would move that this might not altogether be in the clouds. Express it to continue till next Triennial Parliament.† If it be left indefinitely till the next Parliament, it is a fair way to put it in the power of your chief magistrate never to have Parliaments. I know

* *Journals.*

† The 7th article of the *Instrument of Government*, determines, "that successively a Parliament shall be summoned once in every third year." *Parl. Hist.* xx. 230.

not what to propose in this, in regard of this uncertainty, but shall offer that it may continue for a year, at which time your next Parliament shall be called. I know no other way.

The Master of the Rolls. You have voted 600,000*l. per annum*, and you had my *yea* to it, and I think I shall bear my share with others, for are we not all liable to our common calamity? I cannot see but there is a necessity for the maintenance of those men that keep us in quiet, yet it is a great temptation (and the best men may fall under it), that the leaving this revenue, without a certain time, may be a means to keep off Parliaments. If I had a sword, I confess I should not lay it by till I needs must, and, if there be necessity for an army, there is a necessity for a pay; and the question will be, whether we shall give it, or they take it. While there are such discontented persons abroad, and a family of Pretenders, no doubt but there will be a necessity to continue this sum for a little time, that the pretence may be forgotten. You may name two or three years. We cannot hope it, by human reason, that in four or five years it can be done. I thought when I first came into that chair* that we should have been quiet within a year. I would not have this continuance of the sum relate to the calling of the next Parliament; but for such a time as by human probability, a year, or two, or three, as you please. If it were in my power, I would not have the army disbanded till we were in probability to be quiet, that we might have comfort in them, and they in us. I think in four years time it cannot but be probable we shall be quiet. If you please to make it for one, two, or three years, I shall agree, but I would not have it to begin till Michaelmas next.

Mr. Berkley seconded that motion, that the time for the continuance of this sum might be for four years, and not to commence till Michaelmas next.

Lord Broghill. Now you have settled the sum, you are

* "Nov. 5. 1640. The Commons presented William Lenthall, of Lincoln's-inn, Esq. to the king as their Speaker, with the usual ceremonies." *Parl. Hist.* ix. 68.

debating the time, and the question is, whether to limit it to a certain time, or to the next Parliament. The last is uncertain; for in making of laws, we should always provide as if men would be bad. It is a great temptation to the chief magistrate, in whose power it only is to call a Parliament; so that that is inconvenient. And if you limit the calling of a Parliament to a day, you cannot call a Parliament in the interim, be the necessity never so great. I shall rather adhere to the other motion, that it may continue, for at least four years. If it were five years, there were no danger, for it is from the people's purses and they are still masters of their own monies if any to spare. But I differ as to the time of the commencement, and would have it to commence at Midsummer. It is the beginning of a Government, and it is fit some time should be given till it be settled.

Mr. Bacon. You should give the people some breath, especially seeing they expect it as your promise; and as to the time of continuance, I should think it were too long, but I shall leave that to the debates; the summer charge being already provided for.

Sir Richard Onslow. I have as much reason to plead against taxes as any man, considering the burthen upon the county, for which I serve; but seeing there is a necessity for it, I shall not be against it. That is a mistake in those that say the summer charge is provided for: it is only provided till Midsummer next, so I would have it commence at Midsummer next, and to continue for three years, and no longer. As to that of limiting of it to the meeting of the next Parliament, there may be much uncertainty in that, for the law does not call it a Parliament, unless a Bill be passed in it.

Mr. Croke. I move that it may be four years, as it was first moved by a judicious person,* whose interest is considerable in the nation, and who knows the state of affairs.

Sir John Hobart. The revenues you have settled will maintain a very great army, and a great fleet; and though the charge surmount that sum for the present, yet in three years

* The Master of the Rolls

time, it may be hoped, that there may not be so much occasion for so great a force. Let us be as good husbands for the people as we can. We doubt not but Parliaments will come, that will have as much tenderness, and sense of the necessities, if such shall be.

Sir John Reynolds. You are now reducing all your cause, that has been contended for, to a settlement, and trusting future Parliaments with the whole. I would have it considered, if it were not fit to let one Parliament be over, before you take off the charge. So I humbly move that it may be for four years.

Major-General Howard. The greater sum ought to be put first, but I am for the lesser. You may continue it for five or six years. It will discontent the people, to lay it on longer than needs must, but rather leave it to the care of future Parliaments.

Mr. Thistlethwaite moved, that the words "and no longer," might be added to the question.

General Montagu. I move that you would wave the putting the question for four years, and put it for the lesser time; which would give the people greater satisfaction, and, no doubt, but future Parliaments will take care for the temporary supplies; and in the meantime, it may please God, we may come to a better settlement.

Resolved, that this charge shall begin from Midsummer next.

Resolved, that this charge of 600,000*l.* a-year shall continue for three years, from Midsummer next, and no longer.*

Colonel Jones and *Sir Charles Wolseley* moved that we might sit in the afternoon.

Mr. Bond. I am against the motion. Rather enjoin your members to be here in the morning.

Lord Cochrane moved to sit in the afternoon.

Sir Richard Onslow seconded that motion.

Lord Broghill also moved to adjourn the debate till three in the afternoon, and so it was

* *Journals.*

Resolved, that this debate be adjourned till three of the clock this afternoon.*

The House rose at one.

Post Meridiem.

Dr. Clarges moved, that the House being thin, the Bill for Gloucester, ingrossed, might be read. The clerk was going to read the ingrossed Bill for Carlisle market, but the order of the day was called for, which was read.

The House resumed the debate adjourned in the morning.

Colonel Jones. There is only wanted your sense upon that clause about issuing out and accounting for monies.

Mr. Secretary. I think, this done, you are over all, but that about the Spanish war, which, if you please, you may answer thus: that you have already declared 400,000*l.* to be raised for that war, and that you have put it in a way of raising; and what is further necessary you will raise it.

Captain Blackwell. His Highness was pleased to desire to know what further sum you would raise for carrying on the Spanish war.

Mr. Speaker declared, and such was the sense of the House, that the further sum did relate only to the 600,000*l.*, and not to the Spanish war.

Mr. Godfrey. Though you will not proceed to the raising of the sum of 600,000*l.* presently, you may generally declare how you will raise it, what part by a land-tax. Otherwise, it seems to be granted, that this additional sum must be raised by a land-tax. Therefore, for the satisfaction of the nation, you should declare that, so far as the standing revenue will reach, you will not think of a land-tax.

Sir Richard Onslow. There is no doubt that we shall go the best way to work we can, to raise this money, with the most ease of the people. But, by that rule, he will continue 60,000*l.* a month upon us; whereas, I hope, we shall do it with less.

* *Journals.*

Resolved, that the answer to his Highness, as to the clause touching the Spanish war, shall be,

That the Parliament doth declare, that, for the carrying on of that war, they have voted to raise 400,000*l.*, and have prepared several Bills for the raising thereof.*

The other debate was upon the clause about issuing and accounting for the monies.

Mr. Speaker. I hope you intend not to charge the Commissioners of the treasury with more than they received, as was moved to you in the morning, by an honourable person not now present.

Mr. Fowell. Though all the revenue be not brought into the way of the Exchequer, yet certainly it is the best and surest way. They are men of estates, and I believe the Commonwealth lost above a million of monies by those other ways of receipts.

Resolved, that the monies directed to be for supply of the sea and land forces, be issued by advice of the Council; and that the Treasurer, or Commissioners for the Treasury, be obliged to give an account of all the money to every Parliament.†

The clause about approving the judges was read.

Mr. Godfrey moved, that the monies for the temporary supplies might be added to the vote to be issued, and accounted for as aforesaid.

Major Brooke. There can be no harm in the words "temporary supplies," if they be added.

Colonel Jones. If it be employed for the forces by sea and land, what need of further explanation.

Resolved, that this House doth declare that the officers of state, and judges, on the 9th article mentioned, shall be chosen in the intervals of Parliament, by the consent of the Council, to be afterwards approved by Parliament.‡

Mr. Bampffield moved, that there might be added to that question, "and of the army," that they might also be approved of, as well as other officers of the state.§

* *Journals.* † *Ibid.* ‡ *Ibid.*

§ Here, probably, "more was meant than met the ear."

Mr. Speaker either did not or would not understand this motion.*

The clause of the 18th article was read, about disabling Cavaliers from trust.

Mr. Bond. This will be hard, to lay a penalty upon them, for in the Long Parliament we made them sheriffs, and, if they refused, they were fined.

Sir William Strickland. If a man lose his office, it is punishment enough. The fault is as much in those that put in such officers, as in them that accept it.

Mr. Fowell. The Cavaliers will thank you for it, if you disable them from all places of trust. They labour to shun bearing offices, as sheriffs, constables, jurors, churchwardens, overseers, &c. Surely you will have it only extend to offices of profit and trust.

Mr. Speaker. It should only extend to such as seek offices, or have profit by them. If it be extended to all offices of trust, you will have neither sheriffs nor constables.

Colonel Jones and *Lord Whitlock* moved, that a Committee might be appointed to bring in a Bill for disabling such officers, and for laying a penalty.

Mr. Bampffield moved, that it might be referred to the same Committee to bring in this Bill, that were appointed for that purpose three or four months since.

The clerk read the question, both as to offices of profit and trust.

Mr. Speaker excepted against it, and said he could put no such question. But finding the sense of the House, that they would have it so, it was no further insisted upon by him. But he would fain have had the word "profit" left out, yet he put that afterwards to the question; viz. the word "profit."

Resolved, that it be referred to a Committee, to bring in a Bill upon the 18th article, for imposing a fine or penalty

* It is surprising that this conduct, so unparliamentary, was not resented.

upon such as shall exercise any office of trust or profit contrary to this article.*

The clause about manners, and loose persons, was read.

Mr. Speaker said there was a Bill appointed to be brought in, in November last, that would give an answer to this.

Mr. Bampffield. The Bill was ready some months since, but other business thrust it out.

Sir William Strickland. Certainly this work is very requisite, and abundance of loose persons are about town; at Piccadilly,† and other nurseries of vice.

Sir Charles Wolseley. A general answer to his Highness, in this case, will be sufficient, that you are preparing several Bills as to the reformation of manners.

Major-General Goffe. Such a general answer will be best. As to manners, you have a Bill against drunkenness‡ and the

* *Journals.*

† Lord Clarendon, speaking of himself, mentions "Mr. Hyde going (April 1641) to a place called *Pickadilly*, which was a fair house for entertainment and gaming, with handsome gravel walks, with shade; and where were an upper and lower bowling-green, whither very many of the nobility and gentry, of the best quality, resorted, both for exercise and conversation."—*History*, (1705,) i. 241.

Mr. Pennant conjectures, that this was the place thus described by Mr. Gerrard to the Earl of Strafford, June 1635, (*Strafford's Letters*, i. 435.)

"Since *Spring Gardens* was put down, we have, by a servant of the Lord Chamberlain, a new *Spring Gardens*, erected in the fields beyond the *Meuse*; where is built a fair house, and two bowling-greens, made to entertain gamesters and bowlers, at an excessive rate, for I believe it hath cost him above 4000*l.*; a dear undertaking for a gentleman-barber. My Lord Chamberlain much frequents this place, where they bowl great matches."—*London*, (1791,) p. 121.

Mr. Pennant adds, that "where *Sackville Street* was afterwards built, stood *Piccadilla-hall*, where *Pickadillas*, or *Turn-overs* were sold, which gave name to that vast street, called, from that circumstance, *Piccadilly*."—*Ibid.* p. 122.

Another topographer says on *Piccadilly*, "There were formerly no houses in this street, and only one shop, for Spanish ruffs, which was called the *Piccadilly*, or *ruff-shop*."—See "*London and its Environs*," v. 194.

‡ In 1654, "Empowering the Commissioners of the Customs and

like, and also about manners, &c. And for the laws, you have several Bills prepared, as that for the probate of wills, and for registers,* and for petty actions, &c., which, with some amendments, may be good laws.

Some laughed at this, when they heard him mention that last act.

Sir John Hobart. There should be added to that question the word "proceedings," viz. to regulate the proceedings of the law; for his Highness said, to regulate the body of the law would be impracticable.

Lord Whitlock. The law is a just rule, and a regulation itself. But, if you please, put it for regulating the proceedings of the law.

Mr. Secretary. There are some laws that ought to be regulated; as divers statutes that are mischievous. I desire that the word "proceedings" may also be added.

Mr. Pedley. To regulate the proceedings of the law, is as much as you can do; for you cannot regulate the law itself, unless you take it away.

The Master of the Rolls. There is need of regulation in the laws, as well as in the proceedings. I was turned out of what I had been in possession of for three hundred years. A man shall be turned out of his possession in a month's time, and never know how, by giving a declaration the latter end of the term. This they call expedition.

Lord Strickland. I am glad to hear that gentleman move to regulate the law. I wish he would put us in a way to regulate, not only the law, but the proceedings of the law.

He grew a little angry.

Colonel Jones. If we launch into such a debate, we shall never have done. You have already passed a vote, and no man can, without leave, speak against it.

Mr. Bampfied. I shall instance in two famous cases, as

others, for the better suppression of drunkenness and profane cursing and swearing in persons employed under them."

* See vol. i. p. 8.

to the abuse of the proceedings of the law in granting *Certioraris* upon criminal indictment; one for incest, another for barratry,* both removed and quashed for error.

Resolved, that as to the point of reformation of manners, and also for the effectual execution of the good laws already made, for the punishment of vice, and for regulation of the laws and proceedings in the law, the House is preparing several Bills, and will present them to his Highness in due time.†

The clause about the non-alienating the revenue, was read.

Mr. Speaker and *Lord Whitlock*. If you tie it up so that the public revenue shall not be alienated, you exclude all persons from having their estates out of sequestration, that have paid in one moiety, and know not where to pay in their other moiety. I desire this may be referred to a Committee to bring in a Bill to this purpose.

The Master of the Rolls. I would not have you tie up the chief magistrate's hands, that he can give no reward. I think his Highness rather aimed to show his care of the public revenue, than so generally to be tied up.

Mr. Fowell. This clause will be most proper to be inserted in the Bills for settling the revenue.

Sir William Strickland. Refer it to a Committee to take that into consideration, who may meet with both ends, that neither the chief magistrate ~~may~~ be too strictly tied up, that he can dispose of nothing; nor the revenue be altered, but by Parliament.

Mr. Speaker. I knew a gentleman of Yorkshire, that paid in his 300*l.* into the Treasury, for his composition; and, indeed, we cannot discharge his sequestration. So he must petition his Highness to have the monies back again.

Mr. Bodurda moved, that it might be also declared in that bill, how the revenue shall be disposed of.

Ordered, that it be referred to a Committee to bring in a Bill for the preservation of the public revenue, and against the alienation of it without consent of Parliament.‡

* A fraud on owners or insurers, by running away with the ship, or embezzling the cargo.

† *Journals*.

‡ *Ibid*.

The clause about the 16th article, touching the confirmation of Acts and Ordinances, was read.

The Master of the Rolls. If you confirm all the Acts of the Long Parliament, I doubt some of them may not be for the advantage of some that sit here; as that Act which declares it treason to set up a single person.* If you please to appoint a Committee, they may revise all the laws, and in a short time may prepare an account for you, what is fit to be continued.

Sir William Strickland. Let a Committee be appointed to review all the ordinances or laws that are under some doubt, and such as you think fit to continue, that they may have your seal of authority upon them, as that of marriages; whereupon I did act awhile,† and afterwards desisted, and again, out of necessity, acted upon it.

* *Ludlow* says, that the Parliament, after the execution of Charles, "proceeded to declare, 'that the office of a King in this nation is unnecessary, burdensome, and dangerous to the liberty, safety, and public interest of the people, and therefore ought to be abolished; and that they will settle the government of the nation in the way of a Commonwealth.'

"To this end, they ordered a declaration to be published, whereby it was declared treason for any person to endeavour to promote Charles Stuart to be king of England, or any other single person to be chief governor thereof."—*Memoirs*, i. 285, 286.

† As a magistrate. "March 19th, 1651-2, the Lord Commissioner Whitlock reports from the Committee, an Act touching marriages, and the registering thereof; and also touching births and burials."—*Journals*.

Such an act passed in the Short Parliament, August 24th, 1653, and, with some revisions, continued in force till the Restoration. It places marriage entirely under the superintendence of the civil magistrate, as since in the *Code Napoleon*, (75, 165) and declares that "the age for a man to consent unto marriage, shall be sixteen years, and the age of a woman, fourteen years, and not before;" requiring "sufficient proof of the consent of their parents or guardians, if either of the parties shall be under the age of twenty-one." The prescribed form of marriage, without a ring, or any other ceremony, is thus described:—

"The man to be married, taking the woman to be married by the hand, shall plainly and distinctly pronounce these words;—I, A. B. do here, in the presence of God, the searcher of all hearts, take thee C. D.

Mr. Thistlethwaite. Let all the acts and ordinances be revised, that such as are fit to be continued may have your authority upon them, and, as to those that are not fit, that those that have acted upon them may have indemnity.

Sir John Reynolds offered an expedient, to answer this proposal by a paper in writing.

This paper was tendered, touching, continuing, and confirming several acts and ordinances.*

Mr. Godfrey. I am against receiving any such paper. It may bring us into a debate. Rather refer it to a Committee to revise those acts and ordinances, and such as you think fit put your stamp upon them. Act prudentially and rationally, yet not to confirm all the laws in a lump; this may be a remedy worse than the disease.

Sir William Strickland. Let the paper be read. Possibly it may contain what will answer all objections.

Colonel Jones was against reading the paper.

Mr. Speaker. It is very irregular to bring in such a paper. It is a bill brought in without order, and undertakes to know the sense of the House beforehand.

Sir John Reynolds stood up and vindicated his paper, and said it was not a Bill. He confessed he knew not the order of the House, nor so well how to serve them in that, as he may do otherways.†

Mr. Bond. I hope you will never do such a dishonour to

for my wedded wife; and do also, in the presence of God, and before these witnesses, promise to be unto thee a loving and a faithful husband." The woman then "taking the man by the hand," uses the same words, *mutatis mutandis*, except her promise to be an "obedient wife."

It is added, that "no other marriage whatsoever, within the Commonwealth of England, after the 29th day of September in the year 1653, shall be held or accounted a marriage, according to the laws of England."

To secure a faithful record of "marriages, births, and burials," there was an election in every parish, by the inhabitant householders, of "some able and honest person," to be called "the Parish Register," and to continue three years.—See the Act in "Several Proceedings of Parliament," (1653.) pp. 62—69; *Monthly Repository*, xiv. 358.

* *Journals.*

† Referring, probably, to his military service.

this House. For my part I shall never consent to confirm any laws elsewhere, and all in a lump. This is to do it at blind-man's-buff. There were more laws made in that Long Parliament, than were made since the Conquest.

Mr. Bodurda. Though I honour the gentleman that brought in the paper, yet I cannot consent that this paper shall be read. To confirm all these laws in a lump, is as contradictory as the ignorant inland curate's practice was. Upon strict proclamation that the Common Prayer should be read, he read over the whole Litany, for fair weather and foul weather, and gave thanks for both. You confirm the laws that are flatly opposite, and contradictory, one to another. One act says you shall have no name but a King; another that you shall have no name but a Protector; another, for the *Custodes libertatis Angliæ*,* and all those titles must fight for the pre-eminence, if you put an equal function upon all; therefore I would have it referred to a Committee to revise all.

Lord Strickland. Refer it to a Committee, shortly to revise the laws; some must be confirmed by the lump, otherwise you draw great inconveniences upon yourselves, and unsettle things that were done out of pure necessity.

Sir Charles Wolseley. It has been the prudence of all ages, not to travel into any thing too far, that hath been done by a power in being *de facto*, though not *de jure*. They were always tender in such cases; for, if the legislature had not sometimes been undertaken by another power than was Parliamentary, you had hardly sate here now to make this settlement. The interest of your best friends depends upon these Acts and Ordinances. I shall not offer a paper to you, seeing the former has such an acceptance with you. You have negatively declared, already, that those Acts and Ordinances shall not be invalidated. I have two or three words to

* "Three days preceding the execution of Charles," says Mrs. Macaulay, "the Commons had altered the old style of the proceedings in the Courts of Justice, to '*Custodes Libertatis Angliæ, autoritate Parliamenti.*'" *History* (1772) v. 2, *Note*.

offer to you, as an expedient for your answer to his Highness in this case.

The Master of the Rolls. This is as difficult a point as any that can come before you. Some acts may be injurious in themselves; these are certainly not fit to be continued. I would go thus far; that no man shall be impeached for any thing done upon those laws, by a court or otherwise: nor would I have any man's estate to be staggered or shaken by it. You have already declared that they shall stand by their own strength. I think what that honourable person has offered will do very well, to refer it to a Committee to consider of that paper; but for us to confirm all in gross, would be such a scandal upon us as never was.

Sir Richard Onslow. It would draw such a scandal upon us as never was, to confirm all in the lump. We may make ourselves all traitors, if we confirm all the whole government which establishes a Protector; and the last Parliament would not confirm it but in parts, and that upon serious debate.* That about the monies of 90,000*l.* per month sticks much with me, and I shall never consent to that precedent, that laws shall be made without doors, and confirmed here, though the first paper seemed to assert the rights of the people in making of laws. But if we should swallow such hooks, it would be that which posterity would never claw off.

Mr. Speaker. Both the papers are irregular, and the latter desires in one part more than the former, for it would have all the laws confirmed that were made since 42. To inform you of this is my duty.

Sir Charles Wolseley said, he would submit to their orders; they knew them better than he. Yet he thought the paper was brought in regularly, for that the House gave him leave

* "Though they saw themselves," says *Ludlow*, "under the power of one who, they knew, would force his way to the throne, yet they appeared, in a few days, not to be for his purpose, but resolved, at the least, to lay a claim to their liberties. For whereas the court-party would have obliged them to approve at once the whole Instrument of Government which they had framed, the assembly took it in pieces, and referred the consideration of it to a Committee." *Memoirs*, ii. 499. See *Parl. Hist.* xx. 348.

to read it. Nor does that positively confirm any of them, but only says that they shall not be invalidated.

Lord Whitlock. That gentleman* that said more laws were made in the Long Parliament than since the Conquest, is mistaken, for there were more made in Edward III.'s time; and laws made by the Lords and Commons in the infancy of the king: and yet they continued as laws, and do to this day, without further confirmation. No doubt but any man may offer a paper in a debate, as to what his sense is, as to an expedient in any doubt. I desire the paper may be read, and referred to a Committee to bring in a clause to this purpose.

Mr. Speaker. It is true any man may offer a paper in a debate, but not such an one as may determine the debate, or divert you upon new matter.

Resolved, that this paper shall be read.

The said paper was read accordingly.

Another paper was tendered, touching the Acts and Ordinances made since 1642.

Resolved, that this paper be read.

The said paper was read accordingly.†

Colonel Jones affirmed the papers were not irregularly offered.

Mr. Godfrey. The papers were irregularly offered, for you have been twice diverted from what was the subject-matter of the debate. You were about appointing a Committee, and both those papers, under presumption of an expedient, have quite driven you out of the way.

Mr. Secretary. I shall not oppose my opinion to yours, as to the orders of the House, but I conceive neither of the papers were very irregularly offered; for in any debate, any gentleman may offer his sense, either in writing or by word of mouth, such as he in his judgment thinks may accommodate the debate. It is true, as to the matter there are great objections on both sides, but I would not have us make more scruples than need.

To confirm all those laws at a lump, it is true, looks a little

* Mr. Bond. See *supra*, p. 40.

† Journals.

strange ; but I see no great evil, if we say we do confirm such, till the Parliament shall repeal them.

Settlement lies much in the minds of men ; and to leave things doubtful, there will be as much danger on the other hand, that all that has been done in these times of trouble, &c. may seem to be left loose upon a doubtful bottom, as well as if we should confirm them all at blind-man's-buff.

What shall become of your public sales, and your securities for your debts ; the act for marriages ; all the adventurers of Ireland, and securities of their estates, and arrears of your soldiery there, if all these be shaken ? These are considerable bodies. To raise doubts in their minds may be exceeding ill. All your confiscations and compositions, both in Scotland and England, may be called for again.

I would have you as careful in penning the clause as may be, but not wholly to leave these things at a loose. This sticks with his Highness.

Major-General Goffe. His Highness, you intend, shall take an oath to govern according to the laws, and yet he shall not know what are laws, or what are not ; he is sworn to those as laws, and yet you will not account them laws, and the judges scruple them, and yet he is sworn to maintain them. You put a very hard thing upon him, and his minister too, that you make it not plain and clear what those laws shall be. Therefore, I desire that, for his Highness's satisfaction. It will be a very great block in his way, in order to this you desire of him, if you make not this thing clear and plain.

Major-General Whalley. I would not refer it to a Committee to revise your laws ; for if I were not a friend to your settlement, I could debate every act and every clause in them, and so delay your business ; so as you shall never come to pass this Petition and Advice.

I believe we all agree to come to settlement, and in all the things contained in the Instrument, except that of the title, and for my part, rather than I would forego the other good things contained in it, I could well swallow that of the title. And therefore, as a friend to your furtherance, I shall

offer a more expeditious way ; that is, to refer the papers to a Committee.

Sir William Strickland moved, that a Committee might be appointed to review those acts and ordinances, and, likewise, that those two papers may be referred to that Committee.

Colonel Jones. If this will not lay in your way to this settlement, I desire it may be referred to a Committee to revise the laws. Otherwise, I desire you would only refer the papers.

Mr. Bond. I am as much a friend to settlement as any man, yet I would not, for all the settlements in the world, do an unjust thing. I cannot consent to confirm any thing at a lump, without viewing and examining any particulars.

I had that from a very reverend judge of your own making, that more laws were made in the Long Parliament than since the Conquest.*

I am for referring the whole debate to a Committee, but not the papers.

Mr. Secretary moved, that the papers might be referred also to the Committee.

Mr. Bampfild. There needs no confirmation of any of the Acts or Ordinances of the Long Parliament. They are able to stand upon their own strength. For that of marriages,† if you confirm that, you destroy many hundreds of inheritances. Not one marriage in one hundred is made, in every particular, pursuant to that Act, as to the publication‡ and all other circumstances ; nor were scarce any of the registers appointed within the time limited ; and if it varied in the least point, all is void.

As to that of the settlement of the adventurers of Ireland, and those lands in Scotland, those ordinances need no further confirmation than is expressed in the article to that purpose

* See *supra*, pp. 40, 42.

† Ibid, p. 38.

‡ "Three several Lord's-days then next following, at the close of the morning exercise, in the publique meeting-place, commonly called the church or chapel, or (if the parties to be married shall desire it) in the market-place, on three market-days next following." *Proceedings*, p. 63.—See *supra*, p. 37, note *.

which confirms all acts and ordinances for the sale or dissolution of any lands.

And for those ordinances made by his Highness and the Council, it were better to reduce them all into one act, and so confirm them; rather than, in this way of blind-man's-buff, confirm you know not what, and likewise things that, in themselves, are quite contradictory. And if you do confirm them, it will be like that man who confirmed it before he knew it, for, if he had known it, he would never have confirmed it.

I desire that the papers may not be referred, but that a Committee be appointed to revise them, and see what is fit to be continued, and what fit to be repealed.

Ordered, that the matter of this present debate, touching an answer to be given to his Highness, upon what is by him offered as to the 16th article, be referred to a Committee, to consider thereof, and offer something to the House therein, viz. to Sir Charles Wolseley and Colonel Jones, (and forty-four more,) to meet to-morrow morning at seven, in the Speaker's Chamber.*

The House rose at seven, and the debate was adjourned till to-morrow morning at eight.

Saturday, April 25, 1657.

Out of the Journals.

Ordered, that Colonel Hughson have leave to go into Ireland for two months.

Resolved, that the House be adjourned until Monday morning, at eight of the clock.

Ordered, that the debate upon the papers read yesterday be adjourned until Monday morning at eight of the clock.

The House adjourned itself accordingly (at ten).

The Committee for revising the acts and ordinances met in the Speaker's Chamber in the morning, and appointed a Subcommittee to enumerate what acts and ordinances were fit to

* *Journals.*

be continued, &c., and to report this to the Committee. They sat all the afternoon, and prepared their report accordingly.

Monday, April 27, 1657.

The House met at nine.

Out of the Journals.*

Resolved, that the House, at the rising thereof, be adjourned till to-morrow morning, eight of the clock.

Resolved, that the Bill touching tithes be brought in on Thursday next.

Resolved, that the Bill for regulating of making of serges and perpetuanas be read a second time, on this day se'n-night.

Resolved, that the Bill for creditors and poor prisoners be read on Wednesday se'nnight.

The Committee not being prepared for a report, it was debated to sit in the afternoon, but

Resolved, that the debate upon the papers, reported from the Committee appointed to attend his Highness, be adjourned till to-morrow morning, eight of the clock.

The Sub-committee made their report, and the Committee took up the debate thereupon in parts, and proceeded through most of the public acts and ordinances before dinner.

In the afternoon (they say) all the rest was dispatched to the preamble.

Tuesday, April 28, 1657.

Mr. Pedley stood up to report from the Committee for Revising the ordinances, &c.

Sir Thomas Wroth moved, that, this report being of such weight and consequence, the judges and long-robe men might be sent for to attend; and the serjeant went accordingly.

The mace being returned, the reporter went on, and there were acts and ordinances, printed and unprinted, public and

* *Verbatim in Journals*, vii. 524.

private, with a preamble and several other clauses, as the opinion of this Committee, to be added. One was, that nothing in this report should be binding till his Highness have consented to the Petition and Advice.

In the preamble it was said, that "whereas several acts and ordinances, &c. have been made, not according to the fundamental laws and rights of the people," &c.

Mr. Thistlethwaite moved, that instead of the word "not according," &c. might be said "contrary to the laws," &c.

Mr. Speaker reported what that gentleman moved, and it relished well.

Sir Thomas Wroth. I am against confirming laws in this blind way by the lump. This is the way to have laws ever hereafter made by the chief magistrate, to enslave. I would have freedom of debate upon the matter and substance of them, or at least upon some of the most material. This is like the way of Scotland, where Committees* prepare laws before the Parliament sit.

Major-General Disbrowe. I would fain understand what is meant by laws. I think, where the supreme power and authority is, there is the legislature; and what was done by them are as good laws, as any that have been done by us. All that the Long Parliament did is as contrary to the laws, upon this account, as what is done by his Highness and the Council, and by that rule what is done by us, is as far from the rule.

* The "Lords of the Articles," called, by Buchanan, *Apolecti*. See "*Rerum Scotticarum Historia*," ix. 38, xii. 25.

Dr. Robertson says "it was their business to prepare and to digest all matters which were to be laid before the Parliament; every motion for a new law was first made there, and approved, or rejected by them at pleasure; what they approved was formed into a Bill, and presented to Parliament; what they rejected could not be introduced into the House."—*History of Scotland* (1776) i. 81, 82.

According to Buchanan these *Apolecti* appear as early as 1363. They were first, according to Dr. Robertson, appointed, at least virtually, by the crown. "They came afterwards to be elected by the Parliament, and consisted of an equal number of each estate, and most commonly of eight temporal and eight spiritual lords, of eight representatives of boroughs, and of eight great officers of the crown." *Ibid.* pp. 82, 83.

It reflects upon the Long Parliament by the back-hand. To any thing done for the peace and safety of the nation, why should such a preamble be, which seems to invalidate all that follows? So I desire the preamble may be laid aside.

Lord Whitlock. The preamble, I think, is drawn with a great deal of moderation, without any reflection upon them that were prompted to make any good laws for the nation. But I cannot admit those laws to be equivalent; nor other supreme power but the single person and a Parliament.

The civil law, indeed, gives *Rex habet tres superiores, Deum, legem, et curiam*; an act 2 Hen. V.* expressed that the power of making laws is in the people only, and none to be binding but what the commonalty assent to, and there provided that no other law-making be drawn into precedent.

It is true many laws have been made by the three estates† in the absence or infancy of a prince. Yet, though these were done in the time of the *custos regni*, yet still the grounds and footsteps of all those laws were the people assembled in Parliament, a certain number still of the people together.

I suppose it will not be denied by any person, but that these laws were made not according to the fundamental laws. Their prudence, their conscience, and their judgment will agree.

I can by no means admit of *voluntas, pro lege*. That any ought to be binding as laws, but by consent of the people, was never admitted in Parliament, or that the authorities are equal. Let there be no word of reproach in the preamble, upon any person that, in those exigencies, has undertaken for the good and safety of the nation, but only some few words to vindicate that ancient and undoubted right of the people in law-making.

* I have not been able to find the act to which Lord Whitlock here refers. Dr. Davenant mentions a proceeding in Parliament (1416), 4 Hen. V., when, as expressed in the Rolls, in the old French of that period, *toutz estats Espirituels et Temporels et auxint les Communes du Roialme* were assembled. A treaty between the King and Sigismund, King of the Romans, was not ratified, without *leur comun assent et consent en le dit Parlement*. See *Essays* (1701), p. 179, 180, *Append.* p. 95.

† Lords (Spiritual and Temporal) and Commons.

Resolved, that the House doth agree with the Committee in this preamble.*

Colonel Philip Jones moved, that it is consonant to the orders of the House, to put the report in gross.

Mr. Speaker. This cannot be consonant to the orders of the House, for some gentlemen may be for one, that are not for another, a third haply against both.

Colonel Jones affirmed it again, that it was consonant to the orders of the House to put the question in gross, to agree with the Committee in the whole report.

Colonel Briscoe. Though many things contained in the report may be good, yet I am not satisfied with the report itself. I shall give my reasons why I am against the whole.

But he was taken down by *Mr. Speaker* to the orders of the House. Unless he would speak to that particular, he could not speak to the general.

Colonel Briscoe stood up again. In speaking to the whole, I speak to every singular. Some haply never read, others never saw them, and how rational is this to confirm those unseen!

1. The consent is the act of the will. The schoolmen say *bonum non est bonum, nisi sit integraliter bonum*. When they are passed under your allowance, they have the full force of all your other acts.

It is not Parliamentary to take these, as the Church of Rome does, implicitly, upon supposition that they are good, or rational. It is against prudence, and against Parliamentary prudence. Either it is complete, and that is *cui nihil deest*, the preamble says they are not, for they are voidable.

The Earl of Leicester's case, where the customs of London were voidable only, the confirmation did make it good; but if they had been void, the confirmation would not do it, for confirmation is but *firmum facere*, only to supply the defect. *A bene conjunctis, ad mala divisa, non valet argumentum*. This is a thing that has its inception without doors, and comes hither for perfection: had they come in by several bills, I should have†

* Journals.

† Omission in MS.

2. Confirmation of them here will be an acquiescence in it, and be rather a means to prevent making good laws. The Assembly of Divines did not so much condemn the common prayer itself, as the people's acquiescence in it, and seeking for no other way; and these laws may be made better and more complete. There is no such absolute necessity to confirm them. If it had been so, surely in six or seven months sitting here, they would have been brought here, ere this, for a confirmation.

Not one in 500 that have acted upon them will be questioned. I had rather have pains taken to make new laws, than lay such a dangerous precedent, which though precedents be not laws, yet they are rules. The chief magistrate, hereafter, may be apt to think he has power of making laws; and what prejudice that will be to the rights of the people, or to the rights of the Parliament, I leave it. I desire that the report may not be agreed with.

The Master of the Rolls. You are out of your way now; if you go to debate every particular, I know not how in twelve months you will end. We are going to settlement, and for us to go and shake the foundation of the estates of those gallant men that have kept us in quiet and safety! However critical spirits may say of us, it cannot be denied but we are a certain number here assembled by the election of the people, &c.

As to the question, you ought to put it upon the whole, and then hear what exceptions any man has.

Mr. Speaker disagreed in judgment from the Master of the Rolls. He said that was a more tedious way; for we shall be immediately involved in a debate, and know not how we shall get out.

Mr. Thistlethwaite. I move that the ordinance for approbation of preachers, may only be as a probationer for three years, or for his Highness's life, or while he shall be chief magistrate.

It may be of dangerous consequence, if the supreme magistrate should be a Papist, or a fifth Monarchist. He might

change but six names of the approvers, and turn out all the godly ministers in the nation.

Mr. Godfrey. This is, in effect, a confirming of it to perpetuity; for it is a question, after once you have set your stamp upon them, whether ever you shall get your single person to alter. This being of the highest moment, matter of religion, likely to have its great effect from the persons that shall exercise it, the supply of them being to be without doors, if any act be made probationary, or ought to be temporary, certainly this ought. My motion is, that it may continue for three years, and no longer, unless the Parliament take further orders.

Mr. Bond. To put the question that has been first read, and ordered, will very well agree with the orders of the House. It is very long to put it three years; but, if you please to put it so, I shall agree; but, to make it perpetual, may be very dangerous, for a popish prince may come in, and we should, in making laws, always suppose that the executioners will be the worst. Again, it is very inconvenient to draw men up from the remotest parts of the nation.

Colonel Jones. The natural question is, to put it to agree with the Committee first, and then the other question.

Mr. Secretary. The most natural question is, to put it to agree with the Committee. I would not have this ordinance singled out for a particular dislike, which is so good an ordinance, whereby the nation has received so much good. As to the inconveniencies of men coming hither, the same argument may as strongly be urged, as to bringing down laws into every county, which will not be allowed.

Mr. Bodurda. I am much distracted in considering the great good the nation has had by this ordinance, and the great danger that may be in making it perpetual. I think there is no dislike put upon it, by making it probationary. Either the single person must be trusted before the Parliament, or else the Parliament must be trusted. Now if you make it probationary till the end of the sessions of the next Parliament, you trust in the Parliament. If you make it un-

limited, you trust the single person only, and not the Parliament. I desire it may continue till the end of the sessions of the next Parliament.

Mr. Trevor. I am not satisfied by any reason I have heard, why this should stand probationary, though I have my exceptions. I think those words "till further orders be taken," are not only words of course, but that the Parliament will not only take it into consideration in respect of the defects of the authority, but of the wants in the thing itself.

Major-General Goffe cited his Highness's speech, where he says, if God will bless him for any thing he has done, it will be for this ordinance. He laid great stress upon that. Several clamours are against it, and books writ; but look into it, and it will appear that the greatest exception is this great caution and tenderness. Superstitious and profane persons may clamour.

Colonel Briscoe. If others have reasons to except against it for the remoteness, surely we that serve for the North have more. As to that argument about the Courts of Justice, the case differs. Justice is to be preferred, but religion before all. It will take, haply, a year's revenue to attend here, and the livings and persons are very poor. I desire it may be probationary for three years.

Mr. Drake. All interests are satisfied by this way of approbation, as well Independents as Presbyterians. And for men to say, because it is of consequence, therefore make it but probationary, is to me an argument to make it perpetual. Here is not only the interest of the persons to be approved, but of the parishioners for the good of their souls. I desire the question may be to agree with the Committee.

Sir Richard Onslow. I cannot agree with their opinion that say the executive power of this is in the single person. In former times we knew where it was. As to that of the Parliament taking further order, it is to me as nothing. It is a matter of great consequence, indeed, and I cannot agree to make it perpetual; but that it may be continued for three

years, and that, in the mean time, a Bill may be brought in, that those that are approvers may pass the approbation of this House.

Mr. Bacon. I cannot agree to make this but probationary. That which now reaches to Heaven, may in time go as low as Hell.* The Inquisition was an institution to a good purpose;† the High Commission,‡ &c., and we see what becomes of them. I shall agree to make it for three years, or for his Highness's life, if you please.

Mr. Bampfield. I agree with the design of it, but incline to have it probationary. Men may decay in their integrity, they may fail, and so the persons and the things ought but to be probationary. It comes all to one, whether you make it perpetual, or till the Parliament takes further order, for if you make it perpetual, you cannot exclude the Parliament from altering that.

The persons will be more wary, if established by a law. They will keep stricter to rules. They have no rules at all to judge by. It lies wholly in their breasts. They are not tied to any rules, either as to principles or practice.

If the magistrate prove profane or superstitious, the approvers will be like him, and so the persons approved. This is, in effect, by this ordinance, to put it in the power of the supreme magistrate to root out the Gospel. If there be any fly in the pot,|| any fault in the thing itself, it may make any

* An allusion to *Mat. xi. 23.*

† About 1200 has generally been considered as the date of its establishment, under the papacy of Innocent III., who appointed Dominick the first inquisitor. See Limborch's "History of the Inquisition," (1731) p. 60.

As to the "good purpose" which this Speaker, if not misreported, here assigns to the "Institution" of "the Inquisition," I know nothing. *Credat Judæus Apella, non ego.*

‡ A court erected in the reign of Elizabeth, for "correcting heresies and schisms, abuses, contempts, offences, and enormities of several kinds." This powerful engine of oppression, in the hands of irresponsible judges, was abolished by Parliament in 1641.

|| An allusion to *Ecclesiastes x. i.*

man's negative against the whole. The single person has power to put in or put out. That of "sitting of the Parliament," signifies little in such cases. There will be no recourse to Parliament. All will be filled up in the intervals. The Parliament shall never hear it.

This gives it entirely into the hands of the chief magistrate. It cannot be safe for posterity to make it perpetual. He may put such a principle upon them to act by, and encourage them to go on, and warrant them that they shall not be discouraged, he having a clear negative. I speak it not to reflect or reproach the thing, the design. Something may be amended in it. So I would very willingly and freely go about it; to do something in it presently, and that in the mean time it may continue for three years.

Lord Broghill. Since the great doubt is that they shall always be supplied by the supreme magistrate, and the council, in the intervals; to help and to secure this I would have this added, that such as are appointed in the intervals of Parliament, may be afterwards approved in Parliament; and this may be done by proviso, as I conceive properly. I look upon this stamp that you are now going to put upon these laws as a Bill at the last reading, where any person may offer a proviso. This scruple being over, no doubt but good men will be put in, I dare say it; for the design itself is good.

Colonel Philip Jones seconded that motion, and that the proviso might properly be offered, and that it would do the work.

Mr. Speaker agreed that the proviso might properly be offered.

Mr. Thistlethwaite. I look upon this proviso as a mere shadow. Approbation, in this House, after another has nominated, signifies nothing at all, if the chief magistrate have a negative; so that those that would have it probationary are not answered by this proviso. And, if you put it either with or without the proviso, I shall give my negative.

Major-General Disbrowe. We ought to trust the providence of God in this as well as in other things. We cannot hedge out providence. There is such good experience of it.

I would trust it still with the providence of God. The Parliament are likely to have the appointing of the council, and certainly they will be as good as can be made by them, and the single person is to do nothing but by advice of the council.

Mr. Bond. The first question ought not to be upon the proviso, but upon the time of the continuance of it.

Colonel Jones. That gentleman is mistaken in the orders of the House in this, for the proviso is the first question. The other question alters the nature of the Report.

Resolved, that this House doth agree with the Committee, as to the ordinance (March 20, 1653) appointing commissioners for approbation of public preachers, with this proviso, "Provided that the commissioners to be hereafter named in the intervals of Parliament, shall be afterwards approved by Parliament."*

Mr. Bodurda. To discharge my conscience in this place, I shall be bold to offer another proviso; that if any man find himself aggrieved, he may have the benefit of the law, as formerly in the like cases.

He was cried down.

Mr. Speaker called him up again, and said, haply this motion was not so light a matter as some think. So he went on.

Mr. Bodurda. What a mischief it may be to put in the perpetual power of the breasts of such persons to judge of men's inheritances, and give no remedy in case men be aggrieved. I think it not fit to deprive men of their birthright, that men's inheritances should be destroyed when the laws will relieve them. I think the law in such cases provided a *quare impedit*.†

Sir John Reynolds. This is the way to pluck up the whole design by the roots, which is so good a tree, as the fruits have sufficiently proved it. I would not have you overthrow your whole cause: there are none of those that were at Oxford,‡ or have been turned out, but may claim it as

* *Journals.*

† A process of law to try a right to the patronage of a living.

‡ With King Charles, in 1642.

their inheritances, and have that writ * lie ; and then your whole foundation falls.

Mr. Bampffield moved as an addition to the question, that, if there be cause, the Parliament may remove such persons from time to time. This will be an awe over them.

Mr. Godfrey. There is as much reason to provide for a removal as there is for a supply. A prevential provision is as fit in such cases as in physic.

There are no rules for those persons to judge by ; nor do I know how you can prescribe them such a rule. *Magistratus indicat hominem.* You cannot tell what men may be, when they come to exercise an arbitrary power. If they come to fail in their integrity, if you make such a caution, you cannot be at a loss how to remove them. My motion is, that they may be removed from time to time, as there shall be cause.

Sir Richard Onslow. There is no need of any such addition, for it is in the power of the Parliament already to remove them at their pleasure, if they see cause for it, from time to time.

Mr. Westlake doubted (but he was hooted) whether, if the Parliament had once named them, they could remove them.

Colonel Jones moved to adjourn till three o'clock.

Sir Charles Wolseley, Sir Richard Onslow, and others, seconded it, and so it was

Resolved, that this debate be adjourned till three of the clock this afternoon.

Post meridiem.

The House resumed the debate upon the Report made by *Mr. Pedley*, from the Committee this morning.

Ordered, that the Report of the amendments to the Bill for probate of wills, be made on this day sevensnight.

The question being put, for agreeing with the Committee, touching an ordinance appointing a Committee of the adventurers for lands in Ireland, for determining the differences among the said adventurers ; it passed in the negative.†

* *Of quare impedit.*

† *Journals.*

I came not in till the debate was resumed, and found them in debate, touching the ordinance for uniting of Scotland.*

I cannot remember who was speaking, but they were but newly begun. It was about four o'clock, I missed Captain Lilburn and Lord Strickland, who should both have spoken to the business of the manufacture of salt at Shields.†

Mr. Speaker. None being here that serve for Newcastle or Durham, I have thought fit to mind you of a paper which a young man gave me at the door, touching the salt-makers at Shields, who are undone, in that manufacture, if you pass this before you have a report from the Grand Committee, where the petition of the salt-makers of Shields is depending. I desire you will not be too hasty in it. I see not a noble gentleman ‡ here that serves for Newcastle.

Mr. Disbrowe. The Scotch salt is made at higher rates than at Shields, in respect of firing. Those in the west of Scotland make salt with wood, and those at Shields make it with the worst of their coals, and it will be made out, when you desire to be satisfied in it.

Sir James Macdowell was going to speak, but saw there was no occasion for it.

In the debate upon the jurisdiction of the Court of Admiralty, "June 2, 1654. An ordinance of explanation, touching the jurisdiction of the Court of Admiralty."||

Mr. Speaker was unwilling to question this, and said we were going to take away half the common law. He desired that the ordinance might be read.

Mr. Westlake moved, that the ordinance might be read, that we might know what we confirm. This was only *in favore cathedra*.§

Mr. Fowell. Seeing it is moved to have the ordinance read, it cannot be denied; and it is but fit we should know how we pass it, and if it take away so much of the law.

Mr. Godfrey moved, that the ordinance might be read;

* "An ordinance, April 12, 1654, for uniting Scotland into one Commonwealth with England." *Journals.*

† See vol. i. p. 259.

‡ Lord Strickland.

|| *Journals.*

§ In compliment to the chair.

that if it make any such incursion upon the laws, it might be examined first.

Mr. Speaker would fain have avoided the question.

Major Burton stood up very fiercely, and told the Speaker nobody moved that the ordinance might be read, and that he ought not to move so, &c. but it was carried.

The ordinance for ejecting ministers, &c.

Colonel Briscoe moved, that new names might be put in for Cumberland, where they could not make a full number.

Mr. Bampffield moved that it might but be probationary for six months.

Major-General Goffe moved to have it continued till further order.

Major Brooke. I know much irregularity in the commissioners; that some of them account that scandal which none in this House would account scandal.

Sir John Hobart. I am as much to have the streams cleansed as any man, but doubt that purging by this means is rather to corrupt them. I know, and have good cause to know it, that the commissioners in the county* for which I serve, have acted very rigorously, and it was scandal enough to be a minister with those commissioners. They have turned out twenty-five in my county. I desire it may be but probationary for six months.

The Master of the Rolls complained also of their extravagancy. There was a Bill ready to be brought in to this purpose. He desired it might continue but for six months.

Mr. Godfrey seconded that motion, that it might continue but for six months. The debating being over, the question was put to agree with the Committee.

Mr. Speaker declared for the *Noes*.

Major Burton excepted for the *Yeas*.

After a short debate, the question being put, that the House doth agree with the Committee, touching an ordinance for the ejection of scandalous, ignorant, and insufficient ministers and

* Norfolk.

schoolmasters; the House was divided. The *yeas* went forth.

Yeas 33. General Montague and Colonel Jones, Tellers.

Noes 66. Lord Cochrane and Sir John Trevor, Tellers.

So it passed in the negative.*

Mr. Speaker passed it over, and would have it for no time at all.

Captain Hatsell. It is so good a law, that ought not to be discouraged; but seeing you have thought fit to put your dislike upon it, I hope you will not leave it without a time. Though a great many profane loose persons have been turned out upon it; yet are they not all purged yet. Some counties have done nothing upon it. I desire you would put it for continuing three years.

Major-General Disbrowe seconded that motion, that it might be for three years.

Mr. Bond moved, that the proper question was for six months, which was the ground of our division upon the question.

Colonel Jones. I dislike some parts of the ordinance as much as any man, but would not have it taken away till you have provided a better. I shall speedily bring in a Bill myself, if you command it.

Mr. Godfrey. Putting it for so long time will be a means of remissness as to making any other provision.

Mr. Disbrowe moved, for that very reason, that it might not be put for so short a time, lest this Parliament should rise suddenly, or be obstructed by other business, or that you should dissolve yourselves this summer time.

The question was put for three years continuance.

Mr. Speaker declared for the *Yeas*.

Mr. Bampfild excepted for the *Noes*. The House was dividing, but finding the *Yeas* to have it, out of distance, it was yielded without telling.

Resolved, that the ordinances for the ejection of scanda-

lous, ignorant, and insufficient ministers and schoolmasters, be continued for three years, unless the Parliament take further order therein in the mean time.*

Colonel Jones and *Major Brook* moved, that a Bill might be brought in forthwith for supply of the defects of this ordinance, and that there might be provision made this Parliament, lest it be left at a loose, the time running out.

Mr. Bodurda and others. This is not proper in the midst of a report. I hope not only in this, but in other ordinances that you have confirmed, you will take care, before you rise, to supply acts, where you have them prepared by Committees.

The rest of the ordinances† went off cleverly, without any debate, till they came to the ordinance for paying judges' salaries out of the public treasury.

Colonel White moved against it, and that the judges may be paid out of their fees.

Major-General Disbrowe moved, that this ordinance might only continue for six months, and that after Michaelmas the judges might be paid out of the Exchequer.

Mr. Bodurda. By the old law, judges were always paid out of the customs. I desire the ordinance may be continued.

The Master of the Rolls. I may best speak to this of any man; for I never had salary in all my life. By the ancient law, the judges were paid out of the customs.‡

Colonel Hewitson gave his *yea* in his own ordinance,§ which caused a laughter: the rest went on cleverly.

Mr. Bampffield excepted against the Bill for naturalizing Joachim Hayne,|| which was against the nature of the right he

* *Journals*.

† The whole were 72, all described in the *Journals*.

‡ Among the confirmations is "March 20, 1653. An ordinance for charging the judges' salaries upon the customs."—*Journals*.

§ "March 31, 1654. An ordinance for payment of arrears due to Colonel Hewson."—*Journals*. Though always named *Hewitson* in the MS. he is called *Hewson*, in the list of this Parliament, and described as member for Guildford, and "Colonel of Foot and Governor of Dublin."—*Parl. Hist.* xxi. 15.

|| "July 27, 1654. An Ordinance for naturalising of Joakim Hane." *Journals*.

pleads to have, by being naturalized; and desired he might be put in some of the Bills for naturalization.

The Master of the Rolls. I move that the ordinance may be confirmed. He is now in your service in Scotland, and he can buy no land* unless he be naturalized. So it was confirmed, &c.

Colonel Shapcott excepted against confirming the ordinance for the Almshouse at Windsor.† It concerns his county, and many thousand souls there.

Captain Hatsell. This is a business of great weight, and ought to be looked into. It concerns many thousand souls. I desire that revenue may be examined.

I have made application to his Highness in this, and have hopes of relief, to have something allowed for a minister out of it.

Not one penny in the parish where I live but goes to that Almshouse. Another living there, at 140*l. per annum*, another 88*l.*, and another living robbed in the same nature.

This is robbing the soul to clothe the body. Thus many poor parishes in our county, Devonshire, are spoiled in this nature, and all goes to maintain those thirteen gentlemen. Great allowance to officers. A steward 80*l. per annum*, sexton, verger, &c. 20*l. apiece*.

Mr. Fowell. I second that motion. It is worth your examination.

Lord Whitlock. It is fit those ministers should have maintenance, but not to take other men's rights to do it. It is their ancient right, before this ordinance. They are persons that have faithfully served you; none else are capable. Their salary does no more but maintain the poor knights ‡

* "June 26, 1653. An ordinance for settling lands to the value of 120*l. per annum* in Scotland, upon Joakim Hane and his heirs."—*Journals*.

† "September 2, 1654. An ordinance for continuing the Almsmen and Almshouses, at New Windsore."—*Journals*.

‡ "These poor knights," when appointed by Edward III., were twenty-six. They are described, in 1720, as then "reduced to the number of eighteen," with "each a little cell round the square, where the church stands. They wear a cassock of red cloth, with a mantle of pur-

and officers. I have seen their accounts, and what remains at any time, it is accounted for to the public use. There are three godly ministers maintained out of it.

Colonel Jones. I hope this House will never divert any thing that is given to a pious use. You have had a fair state of the case by this honourable person. It is acknowledged, on the other hand, that the pedigree is as ancient as *Henry VIII.* There is a liberal allowance for ministers' maintenance elsewhere. I hope you will not take it from this.

Mr. Bodurda moved, that Colonel Shapcott might be heard again.

Colonel Shapcott stood up accordingly. I move, that if they have such an ancient and undoubted right, they may be left to law, and not confirmed by you. We desire but maintenance for one minister.

Mr. Trevor moved, that Lord Whitlock might be heard again, which was granted.

Lord Whitlock moved, that he would do all the furtherance he could, to get them allowance for maintenance of a minister; he would move the governors at next meeting.

Mr. Bampfild. I move, that you will not agree with the Committee in that; for there is great abuse of that revenue. Yet it was resolved to agree with the Committee.

The additional ordinance for approbation of preachers* being unprinted,

Captain Blackwell was called to give an account of the contents of it. He said, he did not take much notice of it, but it was agreed to contain nothing but what did agree with the title.

Colonel Philip Jones. There was nothing in it but the

ple, on which they have the St. George's cross on their left shoulder, and they have their stalls in the middle of the choir, immediately below those of the Knights of the Garter, and they are obliged, by their order, to go twice a-day, in their robes, to Church, to pray for the Sovereign and the Knights of the Garter."—*Magna Britannia*, l. 185.

* "Sep. 2, 1654. An additional Ordinance to the Ordinances appointing commissioners for approbation of public preachers." *Journals.*

addition of Mr. Bond, Rowe, and two more Commissioners, at Westminster; and another clause, that they should not approve of delinquent ministers, till they were first approved by the Council. So it passed, &c.

All these ordinances being gone through,

Mr. Disbrowe and *Judge-Advocate Whalley* moved to confirm an ordinance touching the Donatives in Scotland.

Mr. Godfrey and *Lord Broghill* moved, that it might be referred back to some Committee to consider whether it is fit to confirm it. Haply, it is overlooked.

Colonel Jones. It is not much material whether it be confirmed or not, for the Instrument provides for it sufficiently.

Sir Richard Onslow. If you consider this ordinance, you must also consider an order of the Council, which restores the owners, upon payment of the general fine of 40,000*l*. You will not take both their fines and their lands.

Resolved, that it be referred to a Committee, to consider of the ordinance, intituled an Ordinance for settling the estates of several persons in Scotland, in trustees, to the uses herein expressed upon the debate now in the House; and also touching the donatives given to several persons in Ireland by the Parliament; and report something therein to the House for their consideration, viz. to Lord Broghill, Mr. Secretary Thurlow, Colonel Cooper, Colonel Jones, Mr. Disbrowe, Colonel Blackwell, Colonel Zanchy, Major-general Whalley, Colonel Hewson, the Master of the Rolls, Major-general Goffe, Sir Richard Onslow, to meet to-morrow at seven of the clock, and report the same to the House to-morrow morning.*

Mr. Secretary moved, that the ordinance for regulating the Universities might be confirmed, at least for a time, for six months.

Colonel Jones moved, that it might continue for three months.

Mr. Bond. The Committee laid this ordinance aside, as inconvenient, in regard the visitors undertake to make laws against the fundamental laws. If any Fellow shall enter himself in the Inns of Court, he shall be suspended *ipso*

* *Journals*.

facto; yet they will admit the civilians and physicians to practise, till they be doctors, and keep their fellowships.

The Master of the Rolls. I would have it put for three months; but what time soever you give, you invade my Lord Protector's right, who only has the power of visiting; and, the truth is, they have undertaken to make laws to the purpose that is moved to you.

Mr. Speaker. Besides the taking away his Highness's right, you take away the right of the statutable visitors.

Mr. Bodurda moved, that they might be continued for three months, to the end it might be known when it shall have an end.

Major-General Disbrowe. I move that it may have so far of your approbation, as to continue at least for six months. Whatever reproach may be cast upon it, it has been a great means to regulate the University, and to purge loose and profane persons, &c.

Sir Richard Onslow. I move that you would not continue it above three months at most, for there has been strange irregularity upon it. The Masters do not challenge a negative voice, *in terminis*, yet they call it a necessary voice: so that, though all the scholars agreed about the choice of a Fellow, unless the master allow it, all is void.

There was a great debate whether it should be continued six or three months.

The question being put, that that question be now put, the House was divided. The *Yeas* went forth.

Noes 28. Sir Richard Onslow and Colonel Fitz-James, Tellers.

Yeas 41. Sir Charles Wolseley and Mr. Throckmorton, Tellers.

So it passed in the affirmative.

And the main question being put, it was resolved, that the ordinance, intituled an Ordinance for appointing Visitors for the Universities, be continued for six months.

Resolved, that the debate upon this Report be adjourned till to-morrow morning, eight of the clock.*

* *Journals.*

Wednesday, April 29, 1657.

The House resumed the debate, adjourned yesterday, according to former order.*

Mr. Godfrey moved that the mace might be sent for the judges and the members; which was done accordingly.

Mr. Bond. If the judges would meet at six o'clock in the morning they might do all the business in those three hours, and attend the House at nine. Public business is to be preferred before private. The judges never used to slight the Parliament so much.

Colonel Ireland moved that the ordinances for reviving the jurisdiction of the Duchy Court of the County Palatine of Lancaster be continued. It was accordingly

Resolved, that an Ordinance (February 28, 1654) for reviving the jurisdiction of the County Palatine of Lancaster, and for holding Assize there, be continued as aforesaid.

Resolved, that one Ordinance (June 21, 1654) intituled an Ordinance appointing who shall be Justices of Assize for the County Palatine of Lancaster, be continued as aforesaid.

Resolved, that an Ordinance intituled an Ordinance for reviving the Court of the Duchy of Lancaster, be continued as aforesaid.†

Lord Eure, Lord Lambert, and Colonel Sydenham came into the House, and Judge Swinton came in yesterday.

Mr. Disbrowe reported from the Committee touching the ordinance for confiscations and donations in Scotland.

A proviso was made that the wives and children who are required to make releases by that ordinance shall have six months' time to make release of their claims.

Mr. Disbrowe also reported from the Committee touching several donatives in Ireland, and so provided that this extend not to make void the order of Parliament touching donatives to Sir Christopher Coote, the relict of Sir Simon Harcourt and others, and concerning officers in Ireland.

The Report, yesterday made, was read, and the first debate was about continuing the Ordinance.

* *Journals.*

† *Ibid.*

Lord Lambert made a long speech on the behalf of the creditors of those persons whose estates are forfeited there. He said addresses had been made to his Highness, who seemed willing to do something in it. He also moved concerning two donatives upon the Lord Lauderdale's estate, and that the whole might be referred to a Committee; else all these debts and the relief of wives and children will all fall to the ground, and the estate will not be able to bear it, if they go this way to work.

Mr. Disbrowe. If these be not confirmed, all will fall to the ground indeed. It is a question when the House will have time to pass a Bill. The poor people will be wholly remediless.

Sir Richard Onslow. I move that it may be recommitted, and that Lord Lambert may be added, and to bring it in within an hour, and unless you relate also to the order, you discontent a whole nation, and undo a great many.

Lord Cochrane. If you confirm this ordinance without relating to the order, you cut off all the creditors at one blow; and undo a great many poor families. We have lain out of our monies for seven years, and if you do this, we shall never be satisfied. I would have the donatives first satisfied, and the donors to keep possession till then, and that out of the rest the debts may be paid.

This clause was recommitted, and Lord Lambert and Lord Cochrane added to the Committee. They withdrew immediately.

That part of the Report for Ireland was read.

Mr. Trevor. By this you confirm the estates of your enemies, who were adventurers, as Sir Gilbert Gerrard; and this is depending before the Council.

Lord Whitlock. Without this clause you will invalidate all your former ordinances and settlements upon this account.

There was a great debate about the right of Serjeant Dendy against the adventurers; the adventurers would stand to law, and Serjeant Dendy appeals to the Parliament. The matter has been depending before a Committee many months, and it hangs here. The parties complained of are members, and claim their privileges of answering in their seats and not

before a Committee. However it is fit the petitioner should be heard, be the complaint just or unjust.

It is not proper now to move it to you ; I shall take it in its time. I have waited an opportunity three months.

The Master of the Rolls. It is very just that all those settlements should be confirmed. Harcourt died in the service. He was a gallant man, and for Serjeant Dendy's you may say it shall be no prejudice.

Mr. Hampden. I move that Mr. Trevor may be heard again, and that you would leave Serjeant Dendy's right to stand upon its own foot.

Mr. Bodurda. I move that you would confirm the grants and not the estates, for I hope you will not lay your hands upon any thing that is in controversy.

Major Aston. There is no need of the proviso. I desire it may be laid aside, and leave Serjeant Dendy's title as it is.

The Master of the Rolls. I move to sever the question, and leave out the general clause, which takes in all that have been faithful.

Mr. Godfrey offered another proviso.

Mr. Speaker. It is not proper, till the other proviso has had your sense upon it.

The proviso was referred to a Committee, to take all the orders into consideration.

Mr. Pedley offered the ordinance for the better support of the Universities in Scotland, which was omitted in the Report ; and it was voted to be continued.

Mr. Speaker proceeded to put those acts of the little Parliament* particularly to the question.

Mr. Thistlethwaite moved that the Act for Marriages† might be but temporary, for six months.

* Cromwell and his officers nominated 122 for the counties and cities of England, six for Wales, five for Scotland, and six for Ireland. To these were joined, Cromwell, Lambert, Harrison, Disbrowe, and Tomlinson ; making 144. Of these, two, at least, were distinguished after the Restoration, Monk, whose treachery to the Parliament was so amply rewarded, and the Earl of Shaftsbury ; of whom see vol. i. p. 204, note. This assembly sat from July 26, to December 10, 1653, when they suddenly dissolved themselves, probably by the contrivance of Rouse their Speaker.

† See *supra*, p. 37, note *.

Major-General Disbrowe moved that it might pass as the rest do, and not leave this at a loose, lest we be without any way.

The Master of the Rolls. There are other ways for marriages; one in the Long Parliament, which certainly was of equal authority with a vote of the Little Parliament. Now people marry three ways. I desire it may be but for six months.

Mr. Rouse and *Lord Howard* moved that it might be indefinite as to point of time; lest it be left loose, and no form at all, and desired it might be directed to a Committee to bring in their Bill for both.

Lord Chief-Justice Glynn. I move that it may be but temporary, for six months. It is all penned; you may, if you please, leave it indefinite. The Act you have prepared will not be so speedily brought in.

A gentleman being asked how many wives he had had, he said he had had seven wives, but he had been ten times married, viz. three times married to his last wife. This was Sir Gervase Clifton.

Lord Whitlock. I move that it may be continued indefinite, lest you leave it loose, and invalidate what has been done in pursuance of that act.

Mr. Bampffield. I move that the time of its continuance may not be above six months, or that it may be laid aside. It was made but in a nugation of the ministers, and there is another form in force in the Directory,* which is of equal, if not better authority.

Colonel Jones. For those reasons against it, I am for the indefinite continuance of it; because it is inconvenient and absurd. It will hasten your other Bill.

Mr. Attorney for the Duchy. It is the first time that ever I heard an argument for the continuance of any law drawn from the absurdity or inconvenience of it. There are great inconveniences in the Act, and there is a Bill ready prepared

* "The Directory for the Public Worship of God, agreed upon by the Assembly of Divines at Westminster," (1644), in which there is a Chapter "of the Solemnization of Marriage." See "Confession of Faith, &c. of public authority in the Church of Scotland," (1753) pp. 473, 495.

which will rectify it. I desire you would not continue it above six months. It is strange that which has no legislation in itself* should be the foundation of a legitimation to all the families of the nation.

Lord Strickland. If you take away this form, I doubt you will leave none. The Common Prayer way is taken away by Act of Parliament.† It is doubted by some whether the Directory way be not dispensed with by the Ordinance. It were well if a man could marry that way, that he might have his wife by a Directory, and govern her so.

Mr. Speaker. It ought to be considered whether you will continue it at all; for if you give it the stamp of your authority, you confirm it, and the inconvenience will be great to many families in England. You make void all the marriages otherwise made, by one express clause in this.‡

Colonel Holland. You ought not to be a Directory to this House. It might come better from another than myself; but such as this ought not to be. It has not been usual in Parliament. This will work indeed for the lawyers.

Mr. Speaker stood up and vindicated himself, and said, I did but inform, as *amicus curiæ*, but if you will make void all the marriages of England, you may if you please.

Mr. Bond. I agree with your opinion. I would not have it continued for a moment. I have been talked to, sufficiently, for confirming laws by a lump. There are other forms provided. I desire this may be laid aside.

The Master of the Rolls and Colonel White stood up together. Mr. Speaker called to the Master of the Rolls, but Colonel White hotly insisted upon it, to have his privilege, as a member, to be heard, for the Master of the Rolls had spoke. This bred a little heat and debate in the House, and Colonel White would be, and was heard, to speak accordingly.

Colonel White. I would not shake the foundation of mar-

* Meaning, I apprehend, that this Convention was not elected by the people, but nominated by Cromwell and his officers.

† Nov. 26, 1644.

‡ "And no other marriage whatsoever, within the Commonwealth of England, after the 29th day of September, in the year 1653, shall be held or accounted a marriage according to the Laws of England."

riages. By casting a dislike upon this, you will bastardize a great many families, and make work enough for the lawyers. If you take away this form before you provide another in the room of it, you leave all at a loose.

Mr. Fowell. I am against continuing it at all; for it is not one marriage in one hundred that is made pursuant to this Act, and you will bastardize families indeed.

The question was put to agree with the Committee.

Mr. Speaker declared for the *Yeas*.

Mr. Thistlethwaite excepted. So the House was divided. *Yeas* went out. It was equal in the number, 69 and 69.

The Speaker stood up and reported, and said, I am a *yea*, a *no*, I should say. This caused an alternate laughter all the House over, and some said he was gone.*

Lord Chief-Justice Glynn and *Mr. Thistlethwaite* stood up, and said the *Speaker* might rectify his mistake at any time before the order was entered. Precedents are full in the case.

Mr. Speaker stood up, and explained his mistake, that his meaning was he was a *no*.

Mr. Drake. There is another gentleman that was also mistaken in giving his vote.

Mr. Cary stood up, and said he was mistaken in his vote, for he thought the *noes* had been ordered to have gone out.

This bred a great debate, whether the privilege of the one member, to rectify his mistake, might not as well be granted as the other.

Colonel Jones doubted not but the privilege was equal to one member as to another. He desired, notwithstanding, seeing the providence of God has so ordered it, that, though he was against, it might be passed by.

Colonel White and *Major-General Kelsey.* Either take you at your word, or divide again, the privileges of the members being equal.

Mr. Thistlethwaite. Once quit your orders, and you lose all. If you give way to divide again, you put it in the power

* Meaning, perhaps, that he was beside himself.

of any member hereafter, to stand up and say he is mistaken. If a man be of that conscience, as such men may be, it may prove of dangerous consequence.

Lord Chief-Justice Glynn. I agree the precedent to be dangerous, to divide again. By that rule any vote may be recalled.

Mr. Attorney-General. This way is of most dangerous consequence.

Major-General Disbrowe. I believe your heart was indeed against it; but we are rather to look upon the providence of God in it, in directing your tongue to give that determination.

Lord Strickland. I would not have you surprised in your vote. It is certain the other gentleman cannot recall his vote, but you may recall yours. The precedent is ordinary. In the Long Parliament, the Tellers were mistaken in their report, and were rectified by those that sat within. At least eight or nine were over reckoned, and it was recalled before the order was entered.

The *Lord Chief-Justice* and *Mr. Attorney-General* agreed that the case was well cited.

So, notwithstanding all the heat, it was resolved negatively.

Major-General Kelsey and *Major-General Disbrowe* moved, that it might be continued for five or six years.

Mr. Westlake. The first debate was upon six months' continuance.

Lord Chief-Justice. First it was moved for six months; for they may as well move for five hundred years, as for five. There is a Bill ready to pass, to this purpose, which surely may be done in six months' time.

Sir John Reynolds offered an expedient, that it might be continued till the first sessions of the next Parliament.

Major-General Goffe moved, that it might continue for five years.

Lord Fiennes. The time is indifferent to me; but I would have that clause left out, which makes all other marriages void.

Colonel Stewart. I second that motion, to leave out that

clause; for there is another way of marriage provided, which is still of force, viz. by the Directory.

Major-General Goffe. This will leave the nation under two or three ways, and is, in effect, to null this which you are going to confirm.

Colonel Jones. I am neither for the one nor for the other. It will not be for the honour of the Parliament to have the nation under two or three forms, and it will but entangle the ignorant, and quite null what you are going to confirm. I desire it may be put for six months.

Captain Hatsel moved that it might be put for five years.

Mr. Godfrey moved that it might be for six months.

Mr. Bond. I am for taking away the clause. I have known the most knowing and eminent persons in the nation married the other way. They would never submit to this law.

Mr. Attorney-General. I do not know any precedent for it, that ever there was a law made to make marriages void. The parties that stole marriages, or the like, were otherwise punished. Wise men thought before, that the authority would fall of itself, and so the law will fall; but now you confirm it. You make it a law, which was never *de jure* a law before, and so lay a foundation for suits all England over.

Lord Broghill. If you confirm this, which was never looked upon as a law, you punish those who, in asserting the rights of the people to make laws, would never submit to this, and you encourage those who would observe no other, because they were by another authority than the people usually in-trust.

Lord Whitlock. There is a necessity that you should leave out that clause, though you continue it but for a day; for the time of the continuance of it is not material.

Major-General Disbrowe. I am indifferent whether you continue it or not, if you take out that clause.

Mr. Bodurda. I have given my consent to seventy-five laws* since yesterday at this time of the day; but, if you

* The confirmations of Ordinances of former Parliaments, &c.

continue this Act but for a moment, you must take out the clause.

Sir Richard Onslow. I doubt you are going to run upon a greater rock ; for, by taking away this clause, you confirm all marriages made by ministers, though without consent of parents.

Mr. Speaker put the question whether this clause should be part of the question ; *Yea* and *No* was given, and the question was mistaken, as some thought, which was very intricate, and the Speaker was at a loss to explain his meaning. And he was called to declare, which led us into a confused debate.

Colonel Cooper questioned the Speaker for pinning our votes upon his meaning.

Lord Whitlock offered another question thus, "That this ordinance might be confirmed without this clause."

Sir Charles Wolseley. You can put no other question till the House divide upon this. The question was rightly put, for those that were *Noes* would have the clause left out, and be no part of the question. Those that were *Yeas* would have it stand ; and if men were mistaken in their *Yeas* or *Noes* they may help it upon the division.

Mr. Bampfild. I conceive the question was rightly put, as it has been moved before ; and, therefore, would have you to declare that the House may be divided, which will decide the controversy.

Colonel Jones. Those two gentlemen are mistaken ; and yet the question was rightly put ; only gentlemen were mistaken in their *Yeas* and *Noes*.

The question was read with the word "except" in it, which was not in the former question.

Major Burton. After a quarter of an hour's debate you have made it as you would have it. I gave my *No* to the question, but it is altered since.

The House was going to divide, and was in a great confusion.

Lord Whitlock. It does not become the gravity of this House to be in this confusion. It is a matter of high consequence ; but, in my opinion, you cannot divide, for that men

were mistaken in their votes. Besides, many members are gone out, and then you cannot divide.

Mr. Attorney-General and *Mr. Godfrey*. You cannot divide now, for divers members are gone up,* and some come down, and you cannot do it.

Lord Lambert. None are gone out, and the only way to decide it is to divide; for though men be mistaken in giving their vote, yet I may, at any time, before the dividing, recall my mistake.

A great debate, whether the House should be divided, or a new question upon it.

Mr. Bond. We have usually, upon such a mistake, made a new question.

Lord Broghill offered it thus, That this clause shall stand as part of this Act. Let that be the question.

The question was put as *Lord Broghill* offered it.

A new question put, and the old waved.

Mr. Speaker declared for the *Noes*.

Mr. Tymbes excepted for the *Yeas*, but yielded it afterwards. So it was resolved.†

General Montague moved to adjourn for two hours.

Sir John Reynolds. I move that you would adjourn for two hours. I know not how soon I may be called away,‡ and I would fain see an end of it before I go. I moved it not only for my particular good, but for the public.

This was seconded by two or three more. So it was resolved to adjourn till four o'clock.

Post Meridiem, at Five.

Sir Richard Onslow offered a proviso to the Act for mar-

* To the "Committees, above stairs."

† "That one printed Act, intituled, an Act touching Marriages, and the Registering thereof, and also touching Births and Burials, thus amended, (See *supra*, p. 37.) be continued for six months, from the 29th of April, 1657; unless the Parliament, in the meantime, take further order."—*Journals*.

‡ In May, this year, 1657, he was sent over with 6000 foot under his command, to assist the French against Spain, and died by shipwreck on his return. See Noble's "Protectoral House of Cromwell" (1787.) ii. 422; *infra*, May 5.

riages, touching making all marriages void, when the woman, under twenty-one, shall have married without consent of parents or guardians ; but, after an hour's debate, it was thrown out by the question, whereupon the House was divided.*

Mr. Godfrey and *Colonel Stewart* moved that this proviso might take place for the future.

Mr. Bond, and the sense of the House, being against it, it was laid aside.

Mr. Disbrowe reported from the Committee appointed, this morning, to pen a proviso touching the confiscation and donatives in Scotland, and preservation of the rights of creditors, which was read.

Mr. Bond moved to have it "wife or wives," for a wife cannot do without another with her.

Mr. Swinton moved, that the Countess of Lauderdale may have no benefit of the 600*l. per annum*, given to her by that order, unless within six months she release her jointure.

That estate was much encumbered with debts.

Mr. Downing explained for him, and seconded that motion.

The Ordinance with these provisos being passed,

Mr. Swinton offered a proviso, that nothing in that Ordi-

* "The question being put, that this proviso be added, viz. "Provided, nevertheless, that such marriages as have been made since the 29th of September, 1653, between parties, either of them under the age of one-and-twenty years, without consent of parents or guardians, (the said parties, or either of them, then having parents or guardians,) unless the said parents or guardians have, or hath, since the said marriage, consented thereunto; and all marriages which shall be hereafter made, during the continuance of this Act, between parties, either of them under the age of twenty-one years, without consent of parents or guardians, shall, according to the intent and meaning of the said Act, be null and void.

"The House was divided.

"The *Yeas* went forth.

"Sir Richard Onslow and Mr. Swinton, Tellers for the *Yeas*; with the *Yeas*, forty-one.

"Sir John Reynolds and Mr. Hampden, Tellers for the *Noes*; with the *Noes*, forty-seven.

"So it passed with the negative."—*Journals*.

nance shall be understood to impeach the Articles made by the Commander-in-Chief, with any of the persons therein named, which have been confirmed by his Highness and the Council.

Lord Broghill. I second that motion. It was very fit that you should confirm the articles of war, and you are safe enough in this proviso; for you ratify none but such as his Highness and the Council have approved.

It was passed accordingly.

Mr. Swinton offered another proviso for the pardon of Callender and Cranstone.

Lord Tweedale and *Lord Broghill* seconded that motion. His Highness hath showed much favour to one of them, viz. to Cranstone, and he hath done good service in Sweden.

Mr. Secretary. I doubt that Cranstone hath not done such good service as is moved. It is true, he raised some men in Scotland for the king of Sweden,* but I hear they are since gone to Middleton,† whether by his consent or no, I cannot yet say.

Lord Howard. There are but two persons presented to you for pardon in this case, and you are told how they have done good service. If there be but two hard cases offered to you, you may very well pass it.

But it was laid aside.

The Master of the Rolls offered another proviso, but it was not read.

Colonel Jones took him down, and said by this vote we shall never have done. There may be so many provisos

* Charles Gustavus, cousin of the celebrated Queen Christina, in whose favour she abdicated the throne, June, 1654. Christina had become queen on the decease of her father, Gustavus Adolphus, slain in 1632, in the battle of Lutzen, in the moment of victory.

† Who, in 1654, appeared in arms for Charles Stuart. *Ludlow* says, that "Lieutenant-General Middleton, with about 100 men more, for the most part officers, 500 arms, and 150 barrels of powder, landed in the north of Scotland." He was defeated by Colonel Morgan, under the orders of General Monk. "His commission, instructions, and divers letters, written to him and his friends by their king, were taken also."—*Memoirs*, ii. 505, 507.

brought to every ordinance that passed yesterday, and this was passed then.

Major-General Disbrowe. I moved that you would explain from what time the Act of Marriages shall commence; for it seems it is expired: for it is six months since the Parliament began, and those six months are to begin then, unless you express the time when those months shall commence.

It was resolved to begin at 29th of April, accordingly.

Lord Lambert. I move that, seeing you will not pass the former proviso, for restoring those two honourable persons, Lords Callender and Cranstone, you would order a Bill to be brought in.

It was referred to Lord Broghill, Lambert, Swinton, Howard, Tweedale, and others, to bring in a Bill to that purpose.

Mr. Godfrey offered a proviso, or that it might be inserted in that Act to remit all fines, that by his Highness or his Council, have been ordered to be remitted.

This motion was waved, as the other was, for haste's sake.

Mr. Speaker went on upon the remaining part of the reports, and passed them all without debate, till it came to that about the Ordinances for the Excise and Customs.

Mr. Disbrowe moved, that the order and declaration touching the Excise and Customs in Scotland, might be confirmed:

Mr. Bampffield. There are laws ready prepared both for the Excise and Customs, which will supply all those that you are going to confirm at a lump. Certainly there are very grievous clauses in those laws. This is like King James making knights, where, in a room full of men, women, and children, he declared them all to be knights.

Captain Lilburn. I am sorry to see all those laws brought in to be confirmed at a lump, which are so grievous to the nation. If you will not lay this aside, I desire you would leave out those words, &c.*

Colonel Philip Jones. Though there may be grievous clauses in those Ordinances, yet free quarter, and your seamen

* "The several acts, and ordinances, and orders, relating to the excise, &c." *Journals.*

coming amongst you,* is more grievous. You are no further from providing other laws to supply them, though you do confirm the former.

Mr. Godfrey. It may not be convenient, *rebus sic stantibus*, wholly to take them away, but they may be continued for three years. Though it is likely that this must raise the greatest part of your revenue, yet such occasion may be, that you may diminish or increase the duty of excise, or you may alter the way of bringing it in. Haply you may do it by the exchequer way. I shall, therefore, move that it may be temporary, and not made perpetual; which would never have been thought proper in Parliament, to move to perpetuate a charge upon the people.

Yet, notwithstanding all this, it passed without further debate.

Major-General Disbrowe † excepted against the vote of the Committee, touching the right of the commoners to the forests, that it was too large, and that the soldiers have been long enough without their arrears.

Colonel White was of this opinion.

Yet it was passed to agree with the Committee, and the Committee was appointed to bring in a Bill to preserve the right of the commoners, &c.‡

* Perhaps referring to some late riotous assemblage of seamen. I have now before me a proclamation during the war with Holland, as originally printed, "By the Council of State, appointed by Authority of Parliament." It is "Dated at Whitehall, this 27th day of October 1653," and signed "John Thurloe, Secr."

This proclamation purports that "notwithstanding the extraordinary care that hath been taken by the State from time to time, for their encouragement, divers seamen, and others did, in a mutinous and seditious manner, assemble together in numerous companies, with pistols, swords, and other weapons, on the Tower-hill, at Charing-cross, and other places."

After prohibiting such assemblages "upon pain of death," the Council proceed to declare "that a speedy course shall be taken for the adjusting and payment of the money due to the seamen for their shares of prizes, and that all due encouragement shall be given to such as shall voluntarily engage themselves in their present service."

† On the "Ordinance for the sale of four forests or chases, reserved for collateral security to the soldiers." *Journals.*

‡ "To provide how the said proprietors and commoners may make

Colonel Jones offered a clause in parchment, to confirm a donative of 100*l. per annum*, given to one Mr. Valentine, in a clause of the Little Parliament.

Major-General Kelsey, Sir Richard Onslow, and divers others, moved that the clause might be read.

Mr. Thistlethwaite and Mr. Pedley. Bring in a Bill, which is as effectual. Otherwise business will break in upon you.

Colonel Jones. I think that, if you make a vote to continue it, and order a Bill to be brought in to that purpose, it will be as effectual as if you had read this.

The clause was read by the clerk.

Mr. Lister. The party that brings in the clause ought always to read it.

Resolved, that the Committee last named do bring in a Bill to this purpose.

Mr. Speaker. All is done but a clause and a half. I wish to know if you would go on.

Mr. Godfrey and Major-General Disbrowe. You should adjourn. It cannot be known what debate this may bring on.

After a little debate, the debate and the House were adjourned at past seven.†

Thursday, April 30, 1657.

I came not in till the House was sat.

Mr. Grove moved, touching a clause about Exmoor, in Devonshire.

out the evidence of their several and respective interests and rights, and for the disposal of the said forests accordingly." *Journals.*

It appears from "Instructions for Commissioners," June 19, 1657, that "the four forests were the forest of Sherwood, the forest or chase of Needwood, the forest or chase of Kingswood, and the forest or chase of Ashdowne." *Journals.*

* "Oct. 26, 1653, Ordered that the petition of Matthias Valentine, be referred to the Committee to whom the Bill for sale of forest lands is committed." *Journals.*

† "Till to-morrow morning, eight of the clock, and nothing to intervene." *Journals.*

Mr. Bampffield, Major-General Disbrowe, and others, held this an hour's debate, and at last it was referred to a Committee.

Major-General Disbrowe moved that a Committee might be appointed to bring in a Bill to regulate the Chancery.

Sir Thomas Wroth seconded that motion.

It was referred to a Committee to consider of a regulation, and to bring in a Bill to that purpose, if they see cause, and the Committee are to meet to-morrow afternoon, in the Speaker's Chamber, and all that come to have voices.

Colonel Ireland moved to have the Act made in the little Parliament, for settling 500*l. per annum*, upon the Earl of Derby confirmed.*

Major Brooke. This noble family is in the most distressed condition of any family in England, and if you do not confirm this they must go a-begging.

Lord Strickland gave a very fair character of the young Earl, and seconded the motion.

Mr. Fowell. There is another Bill depending on the behalf of this Earl, but it is nothing to this. I desire you would confirm it.

Lord Broghill. Both justice and charity call to you for a confirmation of this Act, for the poor gentleman has suffered sufficiently; and that only for his father's offence, and no crime of his own that ever I heard.

The Master of the Rolls. I move that you will confirm it, for the family is very distressed, and for the relief of the lady who came from beyond seas, and was of an honourable family.

Major-General Disbrowe and *Mr. Secretary* moved, that it might be so worded as that there might be no doubt nor question upon the confirmation; and, therefore, that it might be expressed to be in full force, and effectual in law to all intents and purposes, which was done according as follows:—

“Whereas, since the 20th of April, 1653,† in the great emergencies and necessities of these nations, divers acts and

* See vol. i. p. 197, *Note* *.

† When Cromwell forcibly dissolved the Long Parliament.

Ordinances have been made, without the consent of the people assembled in Parliament, which is not according to the fundamental laws of these nations and the rights of the people, and is not, for the future, to be drawn into precedent. Yet, the actings thereupon tending to the settlement of the estates of several persons and families, and the peace and quiet of these nations, it is thought fit and necessary, until further order be taken in Parliament, to confirm and continue these acts and ordinances following:—

Resolved, that one act, intituled an Act for settling lands, late of James Earl of Derby, of the yearly value of 500*l.* upon Charles Earl of Derby, and his heirs, do continue and stand in force, until other order taken by the Parliament.

Resolved, that all and every, the Acts and Ordinances before mentioned, according to the true meaning of them, with the amendments, alterations, and additions aforesaid, in pursuance of the resolutions before-mentioned, and according to the respective limitations of time before expressed, and no otherwise, nor in any other manner, be continued and stand in force, and be effectual in law.

Alderman Foot moved to confirm the Ordinance for the Hackney Coaches,* but nobody seconded it; and unless a motion be seconded, the Speaker is to take no notice of it.

It was agreed upon his motion, and that of others, that notwithstanding the repealing and making void all other Acts and Ordinances, acts done or to be done since the 20th of April 1653, till the 1st of June, 1657, upon any of those Acts or Ordinances shall be good and valid.

Mr. Godfrey. It is very hard to ratify all the Acts done upon those acts and ordinances which you now make void, without so much as looking into them or mentioning the titles of them. Haply many of them are in their rules unreasonable or injurious, so I cannot, in conscience, confirm or ratify them; but for common peace sake I would have all persons that have acted upon them to be free from actions and molestation. And because these are not before you I have

* See vol. i. p. 297, note.

no reason in judgment to pass my confirmation upon them. Haply, if they were before me, I should be further from confirming them.

Colonel Jones. This was considered by your Committee, and every individual Act and Ordinance examined, and the titles, as well printed as unprinted. Some Acts, as that for the highways and sequestrations, indemnity will not reach, unless the Act or Ordinance itself be confirmed.

Mr. Nathaniel Bacon and *Mr. Hoskins* moved some exceptions to this clause, but it was moved and the clause passed as amended.

Resolved, that all other Acts and Ordinances, and every branch, and clause therein, not confirmed as aforesaid, made or passed after the 20th of April, 1653, before the 17th of September 1656,* be declared to be, from and after the 1st day of June 1657, null and void; and that all Acts done, or to be done, before the said 1st day of June 1657, by virtue of them, or any of them, be ratified and confirmed to all intents and purposes.

Lord Broghill offered an order of the Lord Protector and the council, dated the 11th day of May, 1654, upon the petition of Algernon Earl of Northumberland, Thomas Lord Coventry, Philip Earl of Pembroke, heir, and William Earl of Salisbury, and others, the executors of Philip Earl of Pembroke and Montgomery, deceased, touching a debt, for which bonds were given to Mr. Flyer and others, who entered bond for 50,000*l.* borrowed of the city for the public service, in the beginning of the Long Parliament, &c. which was read.

It seems this order was to stop proceedings at law against those lords.

Alderman Foot. I hope you will not stop proceedings at law for a just debt, unless you provide another way to satisfy it. I desire it may be referred to a Committee to consider of a way of satisfaction.

Lord Broghill. I agree with that motion, to refer it to a

* The meeting of the present Parliament.

Committee; but would have proceedings at law stopped in the mean time.

Lord Strickland. The city had opportunity enough to reimburse themselves, but they thought the lords were security good enough. Those lords have all done you good service, and it is pity they should suffer for their good-will for the public.

Sir Christopher Pack. The city had always rather have monies than any man's security. There were other ways to drain the treasuries, so that, without detriment to the public service, they could never pay themselves.

The Master of the Rolls. We had always such confidence in the city, that we thought we could not better trust our monies in any place than with them, so we made them treasurers and receivers. They had all we had. Those noble Lords did freely enter into this engagement, when we were in great distress, and for no benefit to themselves; but for the public. I desire it may be referred to a Committee, and that the Lords may be free from actions in the mean time.

Mr. Lloyd. Consider how in justice you can do this, to stop proceedings at law upon a just debt. You may as well say they shall never pay it. If you intend so, you may so express it. The money was lent to this House.

Mr. Bond. It is against common justice that the lords should suffer in it; for what they did so freely for the public. It is fit the city should be satisfied; and had the Long Parliament sat till now, they had done something in it.

Sir Richard Onslow and Colonel Jones. It is reasonable on both sides, both that the monies should be paid, and that the persons should be indemnified.

Alderman Foot. I know the Committee will do nothing in it, unless you find out some way to satisfy it.

Mr. Hoskins. It is reasonable both that the city should be satisfied, and that the parties should be protected; I, therefore, would have it referred to a Committee.

Sir Thomas Wroth. The city has been the very support of the nation, and they have all the monies; the countryman has

but pieces of land. They have lent you great sums, and have lost nothing by it, I hope. I would not have them despond; but hope the Parliament will, in due time, satisfy it.

Mr. Goodwin. I would not trouble you, if I thought you were going to do what would satisfy the city. The Parliament have been seven or eight years in taking order about this debt. I would have a certain time for the Committee to make a report, and that the persons bound in the bond might, in the mean time, be protected, and no longer. Otherwise this may lye seven years more before the Committee.

Sir Thomas Wroth. I cannot sit silent and hear so much reason moved. I desire a day may be assigned to bring in the report, and that the Lords may be indemnified in the mean time.

Mr. Peckham. I move that the city be indemnified for the debt, and likewise that the Lords be indemnified, and that it be referred to a Committee; but I am against assigning a certain time; for, if you be not at leisure to receive the report at that instant of time, the lords shall be laid in prison.

Mr. Godfrey and *Mr. Bampffield* moved that the report and the protection may be limited to a certain time.

Mr. Thistlethwaite. This is the way to hold the debate all day; first to consider the power of a Committee, before you appoint it, is not parliamentary.

Colonel White. I would have the security taken of the Lords. It is against propriety to take that away, till you have provided other security. It is much of it orphan money.*

Sir Christopher Pack. There are but few that serve for the City;† but I hope you will take care that they may have justice, in the satisfaction of their just debts.

Ordered, that this business be referred unto a Committee, to examine the business and report their opinion to the House, as well for the indemnifying the persons engaged, as how the remainder of the said debt may be satisfied; and, in the mean time, that all prosecution at law, against the persons

* See vol. i. p. 343 note†.

† Six chosen, of whom four were rejected. See vol. i. p. 262, note†.

bound in the bonds for the said debt, or either of them, and against all and every, their heirs, executors, and administrators be stayed, viz. to Sir Christopher Pack, and forty-one more.

This Committee are to meet on Tuesday next, in the afternoon, at two of the clock, in the Inner Court of Wards ; and that they bring in their report to the House, within fourteen days, then after : with power to send for persons, papers, witnesses, and records.

The question being propounded, that, touching the Acts and Ordinances made from the 1st of April, 1642, until the 20th of April, 1653, this answer be tendered to his Highness,—that this House doth conceive no need of any declaration or confirmation, the same being valid in themselves, and ought to be accepted and taken.*

Lord Broghill. I offer some amendments to the clause : as, in the beginning of it, there is insecurity to the persons concerned ; and the question is, whether by your saying you confirm them, you do not shake the foundation of them ? and of whatever you have done yourselves, because not done by the three estates, and as to that of declaring the undoubted right of law-making in the people.

Mr. Grove. I have as great an opinion of the Long Parliament as any man, especially till violence was offered to them,† but they were not infallible. They were the representatives of the people, but many of them were kept out, and others brought in, not by the people.‡ Some things they did, such as giving 1,000*l.* a year, and 500*l.* to one another ; and the High Court of Justice I cannot give my consent to, and I think a great many here will not. Divers suffered by that court, whose death I would be loth to have a finger in. I

* *Journals.*

† This Speaker scarcely alludes to the Protector's outrage on the Parliament, in 1653, which closed their proceedings ; but rather to the forcible interference of the army under Colonel Pryde, Dec. 6, 1648. See *Parl. Hist.* xviii. 447, and *Ludlow* in Vindication of that force, *Memoirs*, i. 270.

‡ In supplying the vacancies occasioned by death or expulsion.

mean not of the king. We have been passing laws by retail, I would not have us now pass them by wholesale. We have passed above sixty. I desire they may be left upon their own authority, which is not questioned in Westminster Hall.

Sir William Strickland. Those Acts and Ordinances of the Long Parliament, had strength of authority enough of themselves, and by your going about to confirm them, you rather shake them. So I would have the clause wholly laid aside, and would give a general answer to his Highness, that you find them so valid that they need no confirmation.

Colonel Jones. I doubt, now that it is before you, how you can pass it over. I desire it may be referred to a Committee to prepare some amendments to the clause, as was first moved.

Mr. Trevor. I would rather have a declaration that the laws are good and of force, than to confirm them; for that argues a weakness in them.

Lord Strickland. I move that you would leave them to stand upon their own authority. There needs no staff to help those to go that can go without it. I would have you rise now, and leave it as it is.

Major-General Disbrowe. There is more necessity of putting a clear and undoubtful sanction upon these laws than upon any other. This is the very foundation of your settlement. Though Westminster Hall question them not now, we know not what they may do, and that were very disingenuous for you to permit. This will not only quiet men's estates but their minds too; and by denying a confirmation to them, you overthrow the settlement upon which you are. I do therefore move, that your confirmation of these may be as firm and effectual as can be devised, which will both quiet your own and the nation's settlement.

Lord Howard. I doubt some will think a declaration too short, others will think a confirmation too large. It will be but loss of time to refer it to a Committee, for if you cannot agree to it yourselves, how then can a Committee?

Colonel White. It is most material to confirm these of any; for they were the foundation of the cause and quarrel,

and the foot upon which we all stand. Therefore, in order to our own settlement, and the security, of those that have acted by them; you ought to confirm them.

Mr. Godfrey. It is impossible for your Committee to word it so well as to give you satisfaction. How can they agree about the words, when you cannot agree about the thing? I had rather leave it quite out, for you cannot caution it so but there will be objections on one side or other, and the laws are not at all strengthened by any sanction upon them, if they be not laws: if they be laws, there needs no confirmation.

By the same rules that those acts may be questioned hereafter, may your own acts and all your settlements be shaken; there are but two arguments against that authority:—

1. Is it according to the constitution, because not by three estates?

2. The barring out of the members,* i. e. the non-freedom of Parliaments.

Those laws cannot be hereafter questioned but upon those two accounts, and may not the same be objected against the authority that confirms them, yourselves I mean, and so overthrow your whole settlement? There is no reason for this satisfaction; your confirmation can do no good at all. If to satisfy yourselves you do it, I suppose you are satisfied already. If to satisfy others, there is as much satisfaction given to them as you can give them. They that are not satisfied by the former authority are not satisfied by yours; for the same objection, both as to the constitution and the members, lies equally against both.

Sir Charles Wolseley. Since his Highness makes it one of his scruples, I would move that some general answer may be thought on, that you conceive those laws are of force already, and need no confirmation. It will make such an earthquake in the nation as never was.

Mr. Bond. I was against the clause, but now you are possessed of it, I would have you lay no blemish upon the

* See vol. i. p. 262, note †.

Long Parliament; for certainly their authority was equivalent with yours. I would have it recommitted, to the end something may be done in it.

Sir John Reynolds. I would have it recommitted, that the answer might be short, in general terms, viz. that they are laws, and you conceive they ought to be so esteemed. Otherwise you do not only shake men's estates, and make men in that way undersell one another, but shake men's minds, and all settlements, nay the very settlement and foundation upon which you stand.

Mr. Secretary. I apprehend no such difficulty of an answer. I am of opinion that the laws made in that Parliament are as valid as need be, without any confirmation; but seeing it is before you, and if you should pass it over, there may be several constructions made of it abroad, and we are to satisfy men's fears as well as their reasons, there is an honourable person now speaking to you, viz. Sir Charles Wolseley, who offered you something. I hope the question will be well worded; some general answer. I doubt not it will give his Highness and all people satisfaction. I cannot word it to you, but as it was moved.

Colonel Jones offered a clause to this purpose, that nothing herein should be construed to confirm any thing that is contrary to the humble Petition and Advice.

Mr. Bampfield. We all agree that till violence was offered to the Parliament* the laws ought to be confirmed; but for what was done since, I cannot in conscience consent to some of them,—as what was done in Pellam's plot, and the putting to death a minister,† and several lords, that were condemned

* See *supra*, p. 85, note †.

† Referring, no doubt, to the case of Christopher Love, an eminent Presbyterian minister. His trial "before the High Court of Justice, for High Treason," commenced "June 20th, 1651," and lasted six days. The charge was that he "did traitorously and maliciously declare, publish, and promote, *Charles Stuart*, the eldest son of the late king of England, to be king of England, without the consent of the people in Parliament."

Mr. Love appears, from the *State Trials* (i. 83—177) to have been legally convicted of treason against the powers in possession. He was

by that high court. By one breath, besides, you say that a king and House of Lords shall be taken away, and by the same breath you set them up. I think there is no need of such confirmation, but would rather leave them as they are.

Lord Whitlock. I know no difference between the authority of that Parliament at one time or at another, and I think the shorter your clause is the better. It is well offered to you with two or three words addition, so as the matter of them be not contrary to the Petition and Advice.

Mr. Speaker added the words.

Mr. Bodurda and *Lord Strickland.* The words were left out because they give place to dispute. It will be said this or that is contrary to the Petition and Advice.

Sir Richard Onslow. You must have these words in, otherwise you will set a-foot that law, and say those laws ought to be accepted and taken of force, which will overthrow your whole settlement.

Mr. Fowell. Unless you put in those words, you make and unmake at the same time, and erect that law again, which is against setting up a single person.

Mr. Bacon. I would have the words kept in, otherwise you throw down the whole foundation of your settlement.

Sir Charles Wolseley. I move, that the words may be

beheaded on Tower Hill, August 22, and made, from the scaffold, a very long exculpatory address to the people.

His friend, Dr. Manton, three days after his execution, preached a sermon at his funeral, "in Lawrence Church," of which Mr. Love had been minister. This sermon, which I have read in the British Museum, is entitled "The Saint's Triumph over Death." The preacher describes the deceased "as a pattern most worthy of imitation, a man eminent in grace, a man of a singular life and conversation." He adds, "I might speak much more, but I will forbear." The sermon was immediately published, with the *Imprimatur* of "John Downname," the Parliament's licenser of the press; a magnanimity which governments, whether *de jure* or *de facto*, have too seldom discovered, and which is strikingly contrasted with the conduct of the restored Stuart, especially in the case of the Regicides. See "A Sermon, preached at the Funeral of Mr. Christopher Love. London, printed for J. B. 4to. 1651."

omitted here, and that a clause may be brought in, after you have done all, to repeal all laws contrary to the Petition and Advice.

Sir William Strickland. I move that the words may be omitted, for it will raise more scruples.

Mr. Godfrey. I would have the whole clause left out, or at least those words, which will but raise scruples and doubts, and do you no service at all.

Mr. Highland. If you put in those words, you take away half the laws you are going to confirm, and I doubt you will leave out the best of them ; as all those laws that were made in the name of the Commonwealth, and that for cutting off the King's head.

Colonel Jones offered a proviso ; provided that nothing herein shall be construed to extend to confirm any thing contrary to the Petition and Advice.

Colonel Mathews. Either leave out the clause, or else take further time to consider of it. Let us look back upon ourselves and our cause, and be careful how we invalidate any of those laws. It is a business of vast consequence.

Mr. Bampffield offered a clause, to say that you do not think that any of them ought to be questioned or invalidated.

Sir Richard Onslow. I doubt you may do too much as well as too little ; for if you say all laws contrary to the Petition and Advice shall not be confirmed, every law not made by the three estates is void, and then your settlement is out of doors.

The question being put, that these words, " wherein as to the matter of them, they are not contrary to the humble Petition and Advice," be part of the question,

Mr. Speaker declared for the *Yeas*.

Major Burton excepted ; and the House was divided.
The *Yeas* went forth.

Yeas 50. Lord Howard and Colonel Jones, Tellers.

Noes 61. Major Burton and Mr. Noel, Tellers.

So it passed in the negative.

And the main question being put, it was

Resolved, that touching the Acts and Ordinances made

from the 1st of April, 1642, until the 20th of April 1653, this answer be tendered unto his Highness ; that this House doth conceive no need of any Declaration or Confirmation ; the same being valid in themselves, and ought to be accepted and taken.*

Major-General Disbrowe. I move, that the proviso † may be read ; for I doubt you have pulled up your settlement at one blow.

Mr. Secretary. I second that motion ; for without this proviso, your vote is quite opposite to your Petition and Advice. And if his Highness should ask what becomes of those laws that are against the Petition and Advice, you must answer, they are of force ; and where are you then ?

Sir John Thorowgood. We that have acted upon the High Court of Justice business, are in great danger if this proviso should pass. I desire you will lay it aside, and adjourn.

Mr. Highland and Mr. Moody. You have laid aside the substance of this proviso, and it is against the orders of the House to bring it in again.

Mr. Disbrowe stood up and said the *Noes* had it when the main question was put, but it was too late.

Mr. Bampfild. I think there needs no proviso ; for the Petition and Advice itself repeals all that is contrary to it.

Mr. Trevor. Neither another clause, nor a proviso, is proper in this case ; but those words are of necessity to be added here in this place. Otherwise, you quite contradict your Petition and Advice, and you will not set up laws, one to fight against another.

Colonel Mathews. Of all places and times, it is not fit now to offer those words, seeing you have just now thrown this out. For that objection, that a single person is contrary to those laws, I do affirm it is not ; for a Protector has been owned by a Parliament, and that Act does not lay hold of any that have acted under that power. I desire you would adjourn and go to dinner.

* *Journals.*

† See *infra*. p. 93.

Major-General Whalley. I shall eat my dinner with a very ill stomach, if you leave it without a proviso; for all that have acted under a single person, have you declared traitors, by making valid all laws in the Long Parliament; amongst the rest, that about setting up the single person.

Lord Whitlock. I should be sorry any gentleman here, should be a traitor for a minute. You have declared, by this vote, that that Act against setting up a single person, is clearly of force. Though the Petition and Advice be against it, and has provided against it, yet this being made since, it seems to repeal your Petition and Advice. Here is a flat contradiction in itself, and one law fights against another.

Lord Strickland. We have acted under a single person these three years, and not been reputed traitors, and it is strange we should be so now. As to that of order of times, it signifies nothing, for all votes in Parliament are of one date.

Sir Charles Wolseley. The laws of the Long Parliament are of more force than they were two hours since. It is expressly against the Petition and Advice, the vote that you have now made; and unless you pass this proviso, you destroy your whole two month's work.

Lord Broghill. Unless you pass this proviso, you pull down what you would build up, and you build up what you would pull down. The case is different now than what it was in the morning. You have declared that all Ordinances and laws that you have not confirmed, shall be void. So that, in effect, you destroyed the Government, which was the only fence you had against that Act against government by a single person.

Sir Richard Onslow. There is a necessity of this proviso now. I was against it before, because I was against the whole clause; for I would not have had those at all meddled with. You expressly set up laws to fight against one another.

Sir William Strickland moved, that you would only repeal that Act which makes it treason to set up a single person

and let the rest stand ; for the proviso may invalidate the whole.

Major-General Goffe. Far be it from any here to be so disingenuous as to surprise men in any vote ; but I think there is no such danger to destroy the Petition and Advice, though you admit this proviso, for it repeals the former Act, as soon as it passes.

Mr. Fowell. To repeal that Act about the single person is not sufficient : there are other laws which the Petition and Advice lays low, as that about perpetuating the Long Parliament. By this vote we have established them, and turned ourselves out of doors.

Mr. Tymbes was of another opinion.

Mr. Waller. You unmake what you would make. By what misfortune this comes about, I know not ; but since this could not be strangled before, I hope it shall not be strangled now. I know not what you mean, by settling what the Long Parliament did ; but I am sure you unsettle the settlement yourselves have made, and go to my Lord Protector for his consent to that which you declare to be treason, both for yourselves and him, to offer or accept it. I desire that you would receive this proviso, otherwise you destroy all you have done.

(It was a pretty, witty speech, but I have wronged him in it.)

Colonel White. I move that you would adjourn ; for there may be inconvenience in the proviso. There cannot be much in omitting it. For my part, I was for the confirmation of all those laws.

The question being put upon the proviso, it was

Resolved, that this proviso be added ; “ provided that this be not construed to extend to the confirming of the matter of any Act or Ordinance of Parliament, which is contrary to the humble Petition and Advice, presented to his Highness, by the Parliament.”*

Then, without any debate at all, it was

* *Journals.*

Resolved, that nothing in this Report be binding, or of force, before the humble Petition and Advice be consented unto by his Highness.*

Colonel Jones moved, that a Committee might collect all the resolves, and attend his Highness with them, and know when the House shall wait upon him for his positive answer to the Petition and Advice.

Sir Charles Wolseley and divers others seconded that motion.

Sir John Reynolds moved, that the whole House might attend his Highness with these resolves; but it was

Resolved, that the same Committee, who did formerly attend the Lord Protector, touching the humble Petition and Advice, do attend his Highness with the several resolves of Parliament touching the matter; and do desire his Highness to appoint a time when the House may attend his Highness for his positive resolution and answer to that humble Petition and Advice.

Ordered, that this Committee do meet this afternoon, at four of the clock, in the Speaker's chamber.†

Lord Broghill offered a report from the Committee for the confirmation of some orders of the Long Parliament, touching the soldiery.

Lord Howard seconded the motion.

But it was too late to receive it then, and it was

Resolved, that the report touching some orders of the Long Parliament be made by Lord Broghill to-morrow morning.‡

The House was adjourned till to-morrow morning at eight, and sat till eight o'clock and past§.

Friday, May 1, 1657.

Major-General Whalley presented a petition on the behalf of Colonel John Fothergill, touching his arrears, that they might be stated at Worcester House.

* *Journals.*

† *Ibid.*

‡ *Ibid.*

§ The first instance I have met with, of such a sitting, without an adjournment for dinner.

Colonel White moved that they might also be bonded as well as stated, otherwise he would fall short of his desires.

All which was candidly received, and accordingly, *nemine contradicente*, it was

Ordered by the Parliament, that it be referred to the Committee for stating accounts at Worcester House, and that they be authorized and required to state the accounts of Colonel John Fothergill, for his arrears, and to give him debentures for the same, according to the rules prescribed to the officers of the army; and that the trustees for the sale of the lands of the late King, Queen and Prince, be authorized and required to give him bond thereupon.*

Colonel Jones moved for a second reading of Mr. Lloyd's Bill, which was done accordingly, without any motion or competition.

He moved that it might be committed, by reason that the matter of fact might be examined, to see whether it be so as is set forth in the Bill.

Major-General Whalley. I am not against the commitment; but would be informed how it is that, instead of 1,500 acres, which he was disappointed of, upon his lot, as adventurer, he should have set out 3,500 acres.

Major-General Disbrowe. At the commitment the whole may be examined.

A Bill for settling of Charles Lloyd of London, esquire, in his lands in Ireland, in lieu of other lands fallen to him by lot, as an adventurer, was committed to Sir Richard Onslow, Mr. Burton, (and 26 more) to meet to-morrow, at two of the clock in the afternoon, in the Duchy Court.†

Lord Broghill reported,—according to yesterday's order from the Committee to whom the matter touching lands given to several persons in Ireland was referred,—the opinion of the Committee, viz.

That the orders of Parliament, or either House of the Parliament, begun at Westminster, the 3rd of November, 1640, for the granting, or setting forth lands upon oath,

* *Journals*.

† *Ibid*.

to Sir Charles Coote, Lieutenant-general Michael Jones, Sir John Reynolds, Colonel Jerome Sankey, Sir George Aiscue, Dr. Henry Jones, the relict of Sir Simon Harcourt, and the relict of Colonel Benjamin Blundell, shall be, and are hereby declared, to stand in force to all intents and purposes.*

On several orders of the Long Parliament, touching some soldiers in former wars.

Mr. Bond moved that some person would give a particular account of those orders, otherwise he knew not how to vote.

Lord Whitlock. By the allowance of those orders you neither strengthen nor enlarge them. That gentleman, if he had been at the Committee, might have seen the ground upon which those orders were confirmed. I have heard some doubt whether the dissolving of a Parliament doth not dissolve their orders, and, therefore, it was thought fit to confirm them, as in this Report.

Lord Broghill. They are the gifts of the Long Parliament to your faithful servants, and those orders are all that they or their widows have to show for them. It takes nothing from you; it only makes them a better title, and it is but just and reasonable you should confirm them.

Mr. Godfrey. It is fit that you should read and hear the orders, that you may know what you confirm.

Colonel Carter. It is all the justice in the world that you should confirm them to those that did you service for it, and accepted it as good security.

Sir Charles Wolseley. It is not only an act of favour, but of justice too, for you to confirm them.

Major-General Disbrowe. It were just for us to confirm those orders, if we knew what they were: but not that, under colour of them, the parties should get into possession of twice as much as was fairly and clearly given.

Lord Broghill. It is intended that all these persons claiming by these orders, shall bring in several Bills to confirm them, and then it will be time enough for that caution.†

* *Journals.*

† It was "Resolved by the Parliament," exactly in the terms of the Committee's Report.

Colonel Jones. I move that an order made in 49, for settling 100*l. per annum*, upon Dr. Owen, may be confirmed; which was for his good service at Colchester.* It has been paid hitherto out of the Exchequer, and it is now desired that lands in Ireland, to the same value, may be settled in lieu of it.

Mr. Bond seconded that motion, that it may be charged upon Ireland; and he hoped that Ireland would in time afford us many a 100*l. a-year*.

Mr. Godfrey. I have as much respect and obligation for and to Dr. Owen as any man; yet I would have the order examined, before you confirm it.

Lord Strickland. Though it be instanced in that service of Dr. Owen at Colchester; yet all here know that he hath done several good services for you elsewhere; and it is little enough that you should confirm this to him which his Highness had taken such care to satisfy.†

* He held the living of Coggeshall, nine miles from Colchester, where he became acquainted with Fairfax, and on the surrendering of that town to the Parliament, August 27, 1648, he was appointed to preach a thanksgiving sermon. See *Brit. Biog.* (1770) vi. 102.

† Dr. Owen appears to have been a favourite of Cromwell. Their first acquaintance is thus related. Owen had preached before the Parliament, on "the day of humiliation and prayer," for success in the expedition to Ireland, in 1649.

"Cromwell, who had never heard Mr. Owen preach before, was present at this discourse, and was extremely pleased with it. Our divine now intended to go to his cure at Coggeshall, within two days, but thought himself obliged first to pay his compliments to Fairfax. While he was waiting for admission, Cromwell entered, and, at sight of him, came up directly to him, and laying his hands in a familiar way on his shoulder, said, 'Sir, you are the person that I must be acquainted with.' Mr. Owen replied, 'That, Sir, will be much more to my advantage than yours.' 'We shall soon see that,' said Cromwell; who, taking him by the hand, led him into Fairfax's garden, and, from that time, was always very intimate and friendly with him."—*Ibid.* p. 103.

Owen accompanied the general to Ireland, and resided in the College of Dublin. Among the *Lansdowne MSS.* is a letter dated from Dr. Owen, at Oxford, to Lord Henry Cromwell, at Dublin, who had requested advice as to some improvements he projected in the regulations of that University.

Colonel Sydenham seconded it, and it was

Ordered, that a Bill be brought in, to settle lands of inheritance, of the clear yearly value of 100*l. per annum*, in Ireland, on John Owen, Doctor in Divinity, and his heirs, in lieu of lands of 100*l. per annum*, formerly granted to him in England by the Parliament. And Colonel Jones is desired to bring in a Bill accordingly.*

Sir Christopher Pack. Some of the Turkey Company are waiting at the door, touching the business between Sir Sackville Crow and them. He did prosecute them at law, albeit the sum was referred to a Committee, and the Committee have been discontinued. I move that proceedings may be stopped till the report come in.

Sir Charles Wolsley. It is against the liberty of the subject to hinder any man of the benefit of the law, unless you had sufficient grounds before you to stop them upon; and therefore I move that till the Committee bring in the report you will not grant any such injunction.

Colonel White. You had the like case before you yesterday,† and would not do any thing in it. I desire you will not stop proceedings.

Alderman Foot. It is but just that proceedings be stopped, so that the hands may be bound on one part as well as another.

Mr. Fowell moved, that the Committee might be required to hasten their report, and that, in the interim, proceedings at law might be stopped.

Mr. Bond. I wonder why any man should be so impudent as to proceed at law, while the business is depending before a Committee. I therefore move, that not only proceedings may be stopped, but that he‡ may be severely punished for his contempt. He has been your great enemy, and what the Turkey Company did was in order to your service. I would have him sent to the Tower, as he was formerly, and fined.

Major-General Disbrowe. It is but just and reasonable that proceedings should be stopped, till you understand the

* *Journals.*

† See *supra*, p. 82.

‡ Sir Sackville Crow.

business; which is certainly foul enough of his side, as I have heard. He durst as well have taken a bear by the tooth as offered such a thing in the Long Parliament, and you ought to vindicate them.

Lord Strickland. I move to appoint a time for the report to be made, and to stop proceedings in the meantime. Though he have been your enemy all along, yet I hope there will once be a time, when men shall know whether they have done good or ill.

Major Beake. There was never such an extravagant person called before you as this man. He has made above sixty defendants in this suit, to take away their testimony. The proceedings appear to be black and dark enough on his part; and unless you stop proceedings the parties are undone. The trial will be on Tuesday next.

Sir Richard Onslow. At the first presenting of this business here you refused an injunction, because you knew not whether it was the same business that the petitioners petitioned against; and you know no more now than you did then. I therefore move that the report may be made to-morrow, or on Monday; that you may have the matter before you to judge, and take your rise thence for an injunction, if fit; but that till then, you would not stop proceedings.

Sir William Strickland moved to appoint the report to be brought in this day fortnight, and, in the mean time, to stop proceedings.

Sir Thomas Wroth. The case yesterday* and this is different. The other was between your friends and friends, but this is between your friends and your enemy. I therefore move that proceedings may be stopped for a month, and that, in the interim, the report may be ready and brought in.

Mr. Moody seconded that motion, and said he attended the Committee, and the business was very foul, and therefore he would have proceedings stopped for a month.

Colonel Jones. If the business already appear to be so foul, the report will be the sooner ready. Therefore, there is

* See *supra*, p. 82.

no need of a month's time. I shall move that it be within fourteen days.

Colonel Gorges. To inform as to matter of fact, it cannot yet appear to the Committee that it is so foul. I had the command to serve them in the chair. They have yet examined but one party, and not any thing as to Sir Sackville Crow's part. I move for longer time than a fortnight to bring in the report.

Major Beake stood up and affirmed that there had been examinations on both sides; but it seems they were but some letters, or the like, to which Colonel Gorges agreed.

Mr. Trevor. For you to stop proceedings before you have a report from your Committee, is a judging the case beforehand. I therefore move that you would grant no such injunction.

Mr. Hoskins. The case yesterday, as I apprehend, may directly parallel with this. There you would grant no injunction, and the same remains, &c.

Ordered, that the Committee to whom the business of the Turkey Company and Sir Sackville Crow was referred, do make their report by this day fortnight, and that all proceedings at law, by the said Sir Sackville Crow against the said Turkey Company, or any particular member thereof, touching the said business, be stayed in the mean time.*

Colonel Jones reported from the Committee appointed to attend his Highness yesterday in the afternoon, that his Highness had appointed this day at ten for the Committee to wait upon him. That time was past.

Resolved, that the Committee do attend his Highness accordingly.

Ordered, that the Resolution made upon the Report made by the Lord Broghill, be part of the business to be presented to his Highness, by the Committee appointed to attend his Highness.† See the Report *supra*.‡

Sir Charles Wolseley moved that the bill for recovery of just debts might be read, but Sir Christopher Pack's motion thrust his motion out, as before.

* *Journals.*

† *Ibid.*

‡ Page 95.

Colonel Jones moved to adjourn: some moved to adjourn till Monday, others till Tuesday, and the House was divided upon the question for Monday.

The question being put, that the House be adjourned till Monday morning next,

The House was divided.

The *Yeas* went forth.

Yeas 87. Major-General Whalley and Colonel Purefoy, Tellers.

Noes 49. Colonel Fothergill and Mr. Thistlethwaite, Tellers.

So it passed in the negative.



Whitehall at 11.

The Committee attended his Highness in the Council Chamber.

Lord Whitlock acquainted him that the House had considered of his scruples and doubts upon the Petition and Advice, and had made several resolves in answer thereunto, which they had commanded the Committee to acquaint his Highness with.

Lord Whitlock read the Report until he came to enumerate the ordinances that were confirmed, &c. so he left off reading and delivered the papers to his Highness.

He then acquainted his Highness with the further commands upon this Committee, (which his Highness, I perceive, looked should have been mentioned at first, for he took the order and read the latter end of it), that they would know of his Highness when the House should wait upon him for his positive resolution and answer to the Petition and Advice presented to him.

His Highness made this short return: that the papers would ask some consideration, therefore he could not then appoint the time, but he would acquaint the House when he had considered of the time, and that in as short a time as might be, or as he could. He spoke low. The Committee did not stay above half an hour, in all.

Saturday, May 2, 1657.

I moved for the engrossed Bill for Captain Blackwell to be read, which was done accordingly, without further debate.

A Bill for establishing of several lands in the counties of Dublin and Kildare, in Ireland, upon John Blackwell the younger, Esquire, and his heirs, and for confirmation of the letters patent to him made, was this day read the third time; and, upon the question, passed.

Ordered, that the Lord Protector's consent shall be desired to this Bill.*

Mr. Burton moved to be first read

“A Bill for settling of Worcester House, in the Strand, in the county of Middlesex, upon Margaret, Countess of Worcester, during the life of Edward, Earl of Worcester, and some discoveries in lieu of the arrears of her fifths.” †

After the engrossed Bill had been read, this was read accordingly.

Colonel Grosvenor moved for the second reading of Lady Worcester's Bill.

Mr. Burton. I move for the commitment of it, for it wants a title, and it is fit you should give a name to your own gift. Also, it relates to the Act for sale of Estates for Treasons; and to several orders and ordinances about fifth parts.

Mr. Bacon seconded that motion, to commit it, and did highly plead for Lady Worcester, in point of charity.

Colonel Cooper, Mr. Bond, and Sir John Thorowgood, moved that the Records and Committees sitting there, ‡ might be continued.

Lord Strickland spoke very favourably on Lady Worcester's behalf.

The Bill was committed to Mr. Burton and others, to meet on Tuesday next, at two of the clock in the afternoon, in the Inner Court of Wards.

Major Morgan reported from the Committee to whom the

* *Journals.*

† *Ibid.*

‡ *At Worcester House.*

business of John Blont, Esquire, and others, against Mr. Levinston and others, was referred, that the Petition of the said Mr. Blont and others, being to reverse certain fines, upon the suggestion of force and fraud; and fines being the common assurance of the nation, upon which all men's estates depend, cannot be reversed otherwise than in Parliament; and having depended in former Parliaments, to the great charge of both parties, the Committee are of opinion, that for those reasons, and that the thing may receive an end, sitting this Parliament, that this cause be heard at the bar of the House, with what convenient speed may be; and that both parties be required to attend accordingly.*

Major Morgan moved for a trial at the Bar in Levinston's case.

Mr. Bacon moved to adjourn till Tuesday, and not slack your former vote, but see the great business over before you do any thing else; and then that business, and *Mrs. Bastwick's* (which *Colonel Gorges* moved), will come time enough.

Lord Strickland. I move to go on, for our idleness will not further the great business moved a month hence to be heard.

The Master of the Rolls. It is a dangerous precedent to admit of an appeal in this case. You will never be quiet for men's clamours. Any man will pretend that the fine was unduly obtained, and better a mischief than an inconvenience, and it will shake all men's inheritance.

Sir Richard Onslow spoke twice, for a day to be appointed this day month. If there be force and fraud in the case it was only fit for Parliament to relieve the parties. Those two are the only enemies to men's rights.

Colonel Cox. I am well acquainted with this business, and move that it might be relieved against the fine, that this day month might be appointed for it.

Colonel Grosvenor moved that it might be heard at the bar, the House being best able to judge of the validity of the fine. Very few lawyers were at that Committee.

* *Journals*.

Mr. Speaker. I was of counsel in this case, where, for two hours together, I argued, and it was fully argued at the Common Pleas bar. It cannot be heard till this day month, because Lord Craven's business must be heard before it.

Major Morgan moved for a shorter day, for a fortnight.

The Master of the Rolls moved that the witnesses that are dead or sick, may have their depositions in Courts of Records allowed as evidence.

Sir Richard Onslow. I move that it may be this day fortnight. I doubt the House may not sit a month, because of hot weather.

Colonel Shapcott. As to the matter-of-fact, I doubt there are great delays on both sides. I attended at the Committee, last Parliament, and found nothing but delay in it. Counsel spoke two or three hours together, the same things over and over again.

Mr. Fowell moved, that Tuesday three weeks might be appointed.

Mr. Speaker. By the orders of the House, I must put the greatest time first, unless you agree.

Colonel Grosvenor moved, that Tuesday three weeks might be the time, and save the question for the furthest time.

Mr. Hoskins. It is but just and reasonable that the depositions should be heard, where the witnesses are dead. They cannot be kept alive, and it is hard that survivorship of witnesses should carry on a cause. Yet I would have those depositions allowed, saving to the parties their just exceptions. Some of them are printed.

The Master of the Rolls. You are going to hear a cause judicially, which, in the consequence, is of the greatest concernment that can be to the House. So I hope you consider what you are going to do. You must go according to the rules of justice. You cannot hear affidavits, but only depositions.

Mr. Speaker. I did argue it in the Common Pleas, that affidavits should not be allowed, but only depositions; yet they were allowed of there, as being very proper; for they

were judges most properly of the fine. As a Serjeant at Law, I am bound to vindicate the Common Pleas.

Resolved, that this cause, upon the petition of John Blont, the Lady Stirling, and others, against Mr. Levingston and others, shall be heard at the bar, on Tuesday three weeks.

Resolved, that either party at this hearing, shall have use of the depositions taken in Chancery, in the cause, of such witnesses as are dead, or cannot be here, against whom no just exception shall be taken.*

Sir Richard Onslow moved for warrants to be given by the Speaker for summoning witnesses.

Resolved, that Mr. Speaker have power to give warrants under his hand, for such witnesses *as either side shall desire to attend on that day.*†

The Master of the Rolls reported from the Committee appointed to attend his Highness, that they did attend his Highness yesterday, and presented and read unto him the Resolves and the Order of the House, which his Highness took some time to consider of, and answered that he would give a speedy and a positive answer, and that he would acquaint the Committee with it.‡

He, therefore, moved to adjourn till Tuesday, and to let no other business interpose till this great business is over. He stood up two several times, and spoke to this purpose with great zeal.

Sir John Reynolds. We have more reason to expect an answer now than ever, because his Highness has promised it. I therefore move that you would adjourn till Tuesday, and let no business interfere with the great affair.

Mr. Bond and others seconded him ; so it was

Resolved, that the business of the Lord Craven be heard at the bar on Tuesday fortnight.

‡ That the Bill for Mrs. Bastwick be read on Wednesday morning next.

* *Journals.*

† *Ibid.*

‡ *Ibid.*

That the House be adjourned till Tuesday morning next.
The House adjourned itself accordingly.*

—

Tuesday, May 5, 1657.

The House being informed that Major Waring, a member of Parliament,† was arrested in the city of London, by John Browne, a serjeant at the mace, belonging to Wood Street Counter, and Nicholas Wolley, his yeoman, by the direction of Ralph Grigge, an attorney of Clement's Inn, at the suit of Harvey and Alston,‡

Mr. Speaker. I move for your privilege.

Resolved, that Ralph Grigge, John Browne, Nicholas Wolley, Harvey and Alston, be sent for, in safe custody, as delinquents.§

Mr. Speaker moved to have the directions of the House whether an ingrossed Bill should be opened.

The clerk was going to read Gloucester Bill.

Sir William Roberts. I move that you adhere to your former vote, to admit of no business till this great business be over.

Mr. Godfrey. It is more honourable for you to proceed than to sit and look upon one another. You are masters of your own orders, and a dispensation is not a breach of your orders.

Colonel Shapcott. It is for your honour to adhere to your vote in a matter of this consequence.

The Master of the Rolls. You should proceed to no business till this is over; for his Highness has promised a speedy and positive answer, without delay.

Mr. Nathaniel Bacon seconded the motion to adjourn.

Colonel Purefoy and *Colonel Briscoe* moved to proceed.

We were sent here to serve our country, and not to sit looking upon another. It is an old saying, *nulla dies sine linea*. Besides, you have admitted business since that order, and you may dispense with your orders, at your pleasure.

* *Journals.*

† For Bridgenorth.

‡ *Journals.*

§ *Ibid.*

Mr. Bampffield moved for a short Bill to be read for the maintenance of a minister at——

But the question was called for to adjourn, which was put accordingly.

Mr. Speaker declared for the *Yeas*: *Mr. Tymbes* excepted; the House was divided; we went out and were 47. They sat and were 50.* So it passed in the negative. The great lords were all absent.

The ingrossed Bill for Gloucester was read according to the first motion made by the Master of the Rolls. The Bill was very long. It was to settle 10,000*l.* worth of land in Ireland upon Anthony Edwards and others, in consideration of their losses by fire, and other accidents, in the time of war.†

The Master of the Rolls. The poor people, out of their zeal for your cause, pulled down their houses without regard to their goods. We desire not by this Bill to intrench upon the rights of others, of any of the soldiery.

Lord Broghill. I have a great value for that town of Gloucester, and none that serve for Ireland will repine at any thing that the Parliament is pleased to do for that city; but these lands in Ireland have been first settled upon by the

* Tellers for the *Yeas*, Mr. Nathaniel Bacon and Mr. Francis Bacon; for the *Noes*, Sir John Coppleston and Major Waring. *Journals.*

† See Vol. i. p. 203. The siege of Gloucester occurred in August 1643. "The besieged," says *Ludlow*, "made a vigorous defence for about a month; the King being there in person to countenance the siege."—*Memoirs*, i. 65.

"Gloucester," says *Whitlock*, "was the general subject of discourse. The King was set down before it with his whole army. The governor, Massey, not only refuseth, upon his Majesty's summons, to render the city to him, but sallies forth upon some of their quarters, and did cut off 300 of their men.

"His Majesty, understanding that *Essex* advanced apace towards the relief of Gloucester, sent to him a trumpeter, with some propositions to be treated on. But *Essex*, too much acquainted with such small designs to hinder his march, returned a speedy answer, that he had no commission to treat, but to relieve Gloucester, which he was resolved to do, or to lose his life there. And so the trumpeter was dismissed."—*Mémoires*, (1732) p. 72.

soldiers, who did you hard service. It was made out that it would not satisfy a fifth part of what is justly due to them. You have now confirmed the Act of the Little Parliament.* I move that you would declare that you intend not to make any intrenchment upon what was settled in relation to those ends; that your poor army there may not be disappointed.

Major Aston. I second that motion, and offer a proviso to secure the interests of the soldiers and adventurers there. I am not against the Bill.

The proviso was read accordingly, and was to that purpose.†

Lord Broghill. This doth not answer my motion; for this relates only to Acts and Ordinances of Parliament, but I moved to confirm the orders of my Lord Protector and the Council.

Mr. Speaker. I move, that the noble Lord would bring in a proviso which would come fuller up to the ends propounded.

But he could not move otherwise.

Dr. Clarges. I move that this proviso may not be read the second time; for this overthrows the Bill. There are provisos sufficient to this purpose. The officers in Ireland are better provided for than in any place else. One hundred families are undone, if you pass not this. They have done you the most eminent service of any body. Their check to the King there, was the great means, under God, of your quiet sitting here.

The Master of the Rolls. There is a clause in the Bill which will help us as much as is convenient without this proviso. If you intend any thing to them but a bare show, I desire you would not pass this proviso.

Mr. Speaker read the clause.

* In 1663.

† "Provided, that this Bill, or any thing therein contained, shall not extend to the granting or disposing of any houses, lands, tenements, or hereditaments, in Ireland, which are subjected and liable to the satisfaction of the adventurers and soldiers, or either, or any of them, by virtue of any former Act or Ordinance of Parliament."—*Journals.*

Major Aston. Put the difference between lands that were allotted or given out, which the clause only related to, but this proviso extends to lands not set out. Many lands are not so much as surveyed.

Mr. Speaker. The clause is good so far as it goes ; but it comes short ; for it takes not in lands not set forth or allotted, and so the soldiery fall short of their security. On the other hand, if you take in all set forth, or not set forth, you utterly exclude the poor people from any relief.

The question being put for the proviso to be read the second time, it passed with the negative, *nemine contradicente*.

Lord Broghill offered another proviso, that it should not extend to lands within the mile line of Connaught, which was read accordingly.*

Dr. Clarget. This proviso is worse than the other ; for the mile line is all that the poor people can expect any thing out of. The west of Connaught is designed for the Irish. I move to lay it aside.

Major-General Whalley. I would have you to relieve the poor people, but not out of other men's rights. I therefore desire that it may pass with this proviso.

The Master of the Rolls. We are all in the dark. I would have any body to inform us, if it be so, that all is designed for the Irish out of the mile line ; and, that excepted, this gives them nothing at all.

I cannot forget that town of Gloucester, which, at such a time, did so valiantly and gallantly do you service. I move that the proviso be laid aside.

Colonel Sankey. I hope we all have a memorial upon our hearts of the service of that city ; and it is fit they should be fully and gratefully rewarded. But if you give it from those that have not that large satisfaction as is intimated, you are

* " Provided that this Act, or any thing therein contained, shall not extend to the granting or disposing of any houses, lands, tenements, and hereditaments, within the *Myle-Lyne*, in the province of Connaught, or county of Clare, granted by his Highness and the Council towards satisfaction of the arrears due to the army before 1649."—*Journals*.

likely to hear of it, what scanty satisfaction they have, and you had not need take any thing from them. I move that they may have satisfaction out of Galloway, and supply it out of other towns and cities.

Mr. Highland. Other persons and places, as the city of Chichester,* &c. deserve as much your justice and pity as Gloucester, and that more want bread than they do. They have a good trade. But if you give them any thing, make it certain. Let not one clash with another; but appoint it in some town, some corporation elsewhere. To do it in promiscuous terms will but create contest.

Mr. Bond. I move for Lord Broghill to be heard again, to inform you about the designment of that county of Connaught.

Lord Broghill moved, that they might have satisfaction within Galloway, which was certain, and unsettled upon by any persons. This would be without contest. The city of Galloway is the most regular city, and best fenced in all Ireland.

Colonel Cooper. There may be 30,000*l.* raised out of the city of Galloway, which would do a great deal more than satisfy them. It is a fine and regular city, with good buildings, and without all exceptions.

Dr. Clarges,† (upon Mr. Westlake's motion.) Galloway is the remotest city in Ireland, and is very poor; few inhabitants, but persons in the garrison. There will not 4000*l.* be raised there. They are poor, and have no trading at all: besides, the inhabitants of that city have articles, to come to their own houses.

We had all this fully debated at the Committee.

Captain Mason moved, that the proviso might be read a second time.

* This city, in 1642, had been "possessed by the King's forces," according to Lord Clarendon, "partly by force, and partly by stratagem." At the close of that year it was surrendered to Sir William Waller, the royalists having "cause to apprehend that the citizens would not prove a trusty part of the garrison."—*History*, ii. 126.

† Probably meaning his information.

Mr. Hoskins moved, that the proviso might be corrected. The question was put for the second reading of the proviso. It passed in the affirmative.

The Master of the Rolls. I move that if this proviso pass, you would except Galloway, for Galloway is part of Connaught.

Lord Broghill. I am a bad clerk, but I intended not a surprise upon any. If a word will serve this amendment, I am not against it.

Dr. Clarges moved, that the proviso might be rejected.

Major-General Jephson. We that served you in the heat of the day were cast behind. Those that had the swords in their hands after, got good satisfaction and were cast there. It was not intended that the corporate towns should be accounted part of the mile line. I would have Galloway and Athlone excepted. I have done you as good service as another, but had never a penny yet. I hope God and your justice will in time repair me.

After some amendments* to the proviso, it was ordered to be part of the Bill.

Mr. Speaker. I move to have it stitched to the Bill before you pass it.

The Master of the Rolls. If you take it along with the Bill without stitching, it is enough.

The Bill, with the proviso, passed accordingly.

The Master of the Rolls. His Highness has sent to the Committee to meet him to-morrow afternoon: I therefore move that you would give leave to your Committee to attend his Highness, and to adjourn till Thursday.

Major-General Disbrowe. I move that, in respect the question is double, you would divide it.

The question was put for the Committee attending his Highness, which was ordered accordingly.

Mr. Speaker moved that he might put the question to adjourn.

* "Except the City of Galloway, and town of Athlone, and two miles respectively off the said city and town, lying within the said Myle-Lyne."
Journals

Major-General Disbrowe. There is a short Bill before you touching vagrants, which is ingrossed. I was informed, out of Somersetshire,* that a sort of people, called Quakers, did meet in numbers there;† and for want of that Bill, there might be danger in it.

* For which county he was M. P.

† Yet, according to "the sufferings of the people called Quakers," they did not meet unmolested. "On the 19th of the first month, (1656-7,) was a meeting at Thomas Budd's, in Martock parish, Somerset, whither came James Stevenson, priest there, attended with a number of men with long staves and cudgels. He interrupted the speaker, uttering many words of reproach." To another meeting, "on the 7th of the 2d month following, came five priests, with a rabble of attendants, furnished with staves, cudgels, pitchforks, and such like armour. They rushed into the meeting with such confusion and noise that the preacher could not be heard; and indeed, their coming made it a riotous assembly, which, the moment before, was an assembly of grave and serious Christians.

"The priest who brought this mob and caused the riot, complained to the magistrates that the Quaker's meeting, held at Thomas Budd's, was a riotous assembly. and tended to the disturbance of the peace. Whereupon, one Captain Raymond, with his soldiers, was ordered to disperse the next meeting that should be held there. Accordingly, he came thither on the 23rd of the same month, when Thomas Salthouse was preaching, and took him, together with Thomas Budd, into custody; and by conducting them to one Robert Hunt, a justice of the peace, they were by him and others severally examined. The issue was, that they sent Thomas Salthouse to prison, as 'an idle, dangerous, and wandering person.'"

The magistrates of that period, in aid of the priests, spared not the gentler sex. "Katharine Evans, for exhorting people to repentance in Salisbury market-place, in the 3rd month, 1657, was, by the mayor's command, tied to the whipping-post in the market-place, and there whipped by a beadle, and then sent away with a pass." On this woman's return to execute the commission with which she imagined herself to be intrusted, "the mayor ordered her to Bridewell, there to be put in a close, nasty place, called the *Blind-house*, where two madmen had lately died, with a charge to the keeper that no friend should come at her, and that she should have no food but what she earned in that place, which was too dark to see to work in. The magistrates were taking council to have her whipped again; but one of them, Colonel Wheat, zealously opposed it, and told the mayor 'they might as well have whipped the woman of Samaria, that brought the glad tidings into the town.' This

Mr. Bampffield. I am informed from my county* that the Quakers grow numerous and dangerous, especially towards the sea coast. I move that the Bill may be read.

Sir Christopher Pack. I move that the Bill may be read; for if there is not a speedy course taken with them, they will grow to a great height.†

stopped their proceeding, so that, after some time of imprisonment in the aforesaid nasty place, they sent her privately out of the town”

One “Justice Cole” was so virulent, that “a sheep-stealer being before him, he spake to him thus—“I will send you to gaol to the Quakers, and you shall go to the gallows together.” See “An Abstract of the Sufferings of the People called Quakers.” (1733.) i. 216, 222, 223.

The incidental notice of the “two madmen” may serve to confirm the remark I had occasion to make, on the ignorance or inattention discovered at this period respecting the insane. See vol. i. p. 73, *note*.

* Devonshire. He was M. P. for Exeter.

† A communication made about this time, by a military officer, to the chief governor of Ireland, will show what apprehensions were excited there by the movements of these sons of peace. I copied the following from the original letter of Major Redman, M. P. for Catherlough. It is dated “Kilkenny, 15 March, 1656-7,” and thus addressed—

“These

“To his Excellency the Lord General Cromwell, at Cork House, Dublin, humbly present;

“Haste, haste, haste.”

“May it please your Excellency,

“Captain Franks and myself were at Waterford, according to your order, where there met about one hundred Quakers, and more, besides the parties of them that were going thither, being ten or twelve in a company, whom I ordered our parties of horse and foot, that were about three miles from the town, on each side the water, to turn back again, which otherwise would, I judge, have increased their number to about two hundred. There was not any disturbance at all, only they met all in a great barn, where Justice Cook, Colonel Leigh, and several others, spent at least two hours, endeavouring to convince them of their follies, but to little purpose. They all dispersed the next day; their meeting being only to take leave of Humphrey Houston, their chief champion, who was returning for England; and some reports there were, that one of their number was to be sent to Turkey. Cornet Cooke was very zealous amongst them to defend their opinions. Our party of horse and foot were beating off bogs and woods, and only supposed to be accidentally there. I advised Colonel Leigh not to permit any more such considerable numbers, either of them, or any of their adherents, to meet within that city.” *Lansdowne MSS.* 923, No. 369.

Lord Howard, Mr. Bond, and Major-General Disbrowe.
Let the House be adjourned; for you ought not to make such inroads and breaches in your orders. After some debate, the question was put to have the Bill read.

Mr. Speaker declared for the *Yeas*.

Mr. Berkeley for the *Noes*.

So the House was divided. *Noes* went forth.

Noes 51. Lord Howard and Sir Thomas Parker, Tellers.

Yeas 90. Sir Thomas Pride and Colonel Beaumont, Tellers.

So it passed in the affirmative.

Resolved, that the Bill be now read.

The Act was to commence at the 1st of February last, which time was elapsed.

Mr. Fowell. Unless you amend it in point of time, you will have no fruit of it till February next. I move that it may commence at the 1st of June.

That being thought too scanty, it was put for the 1st of July; and the Bill, thus amended, passed *nemine contradicente*.

Colonel Carter offered the Report upon the Bill for the Probate of Wills.

Lord Broghill. His Highness, some months since, acquainted the House with a design; and that some forces

The work which I lately quoted, mentions "George Robinson, a young man of London," who, "in the year 1657, felt a motion to travel to Jerusalem." An interesting detail follows, from *Sewell*, of his intercourse with the Turks, and his interruption by "the friars at Jerusalem;" they "well knowing that his testimony tended to prejudice the trade they lived by." See *Abstract*, &c. 1. 400-405.

The following instance, in Ireland, of "declaring truth in steeple-houses," according to the language of the early Quakers, I copied also from the original:—

"Upon the last Lord's Day, whilst the minister was in sermon, the drummer of Major Hodden's late company, by name Robert Whetstone, came in and gave public disturbance, with much bitterness of spirit and reviling. I have committed him, being a soldier. I desire to know my Lord's pleasure concerning him. He is the first Quaker that hath given disturbance here. It is good to nip such spirits in the bud." See a Letter from Lieutenant-colonel Nelson, dated "Ross, the 26th May, 1657." to the "Secretary to his Excellency the Lord General Cromwell, in Dublin." *Lansdowne MSS.* 823. No. 339.

might be raised, and that he had appointed a worthy member of the House to command those forces; but has thought fit, first, to acquaint you with his going. I move you would please to give him leave. It is Sir John Reynolds.

Sir John Reynolds stood up, and put off his hat, and leave was given him accordingly.*

Lord Howard. Do the House that right to put the former question, to adjourn. You have stayed all this month under the hopes of this day's dispatch. The same reason remains.

Major-General Disbrowe. Gentlemen should be satisfied when they see that you have twice determined that you will go on with business. It is not regular to move to adjourn.

* The following passage I copied from an original letter, written from "Whitehall, April 27, 1657," by Sir Francis Russel, M. P. for Cambridgeshire, to his son-in-law "Lord Henry Cromwell, Ireland:—"

"Your faithful friend and servant, Sir John Reynolds, is at present in some kind of trouble of mind. Your father, I do believe, presses him hard to go with these new-raised men into France. What the issue will be I cannot tell; but I rather think Sir John will not go, unless his Highness lay his absolute commands upon him, and then, I suspect shrewdly, the Knight will turn Quaker." *Lansdowne MSS.* 823. No. 418.

The arrival and highly complimentary reception of this commander, whose mission concluded so fatally for himself, was thus described by a contemporary:—

"May 20.—"By some persons returned this day from Dover, we had an account of the embarking of the remainder of the new-raised forces, under the command of the Right Honourable Sir John Reynolds, which was performed on Saturday last, and they safely arrived at Boloign, where the officers of the King of France lay ready to receive them, and disposed them in quarters among their fellows, in and about Boloign; they making in all 6000 men.

"The French declared much joy and satisfaction upon their landing; and it was expected that, on Sunday night last, the King and Queen of France, with a great train of the nobility, would come down thither, in order to the viewing them on the morrow.

"Sir John Reynolds went from Dover, being shipped on Sunday in the evening; and Major-General Morgan, a person of much honour and merit in military affairs, and in that respect fit to serve under so valiant and worthy a gentleman, is within a day or two to follow him, in the quality of Major-General: so that we doubt not but a good account will be given of this expedition, for the honour and service of this Commonwealth in France." *Mercurius Politicus.* No. 361.

Mr. Bond and *Mr. Berkeley* seconded the motion for adjournment, which was very regularly moved.

Sir Thomas Wroth moved against adjournment.

After some further debate, the question was put that the question be now put for adjournment.

Mr. Speaker declared for the *Yeas*.

Colonel White for the *Noes*. So the House was divided, and the *Yeas* carried it.

I was for the *Yeas*. *Sir John Reynolds* one of the Tellers.* Some called it a sign of success. *Yeas* 85. *Noes* 61.

Being to go next morning out of town, for what was done in the time I was away, *viz.*—from Wednesday 6, till Saturday 23 May, 57,—see the Journal.

Friday, May 8, 1657.†

Lord Whitlock reported from the Committee appointed to attend his Highness the Lord Protector, upon the Petition and Advice,

That the Committee yesterday attended his Highness, who excused himself that he had made them stay so long, and desired the Committee to give him another meeting this morning, which they did accordingly. And his Highness did desire the Committee to acquaint the House he will give them a meeting this morning presently, in the Banqueting House.

The House being informed that divers officers of the army were at the door, with a petition,‡ to be presented to the House :

Resolved, that these petitioners§ shall be called in.

* For the *Yeas*, the other *Mr. Fleetwood*. For the *Noes*, *Sir Thomas Wroth* and *Sir William Strickland*.

† I have here extracted from the printed *Journals*. See vol. i. p. 367 note.

‡ *Disbrowe* and *Pryde*, according to *Ludlow*, "went to Dr. Owen and persuaded him to draw up a petition according to their desires." *Memoirs*, ii. 588.

§ Consisting of "two colonels, seven lieutenant-colonels, eight majors, and sixteen captains, who, with such officers in the House as were of the same opinion, made up the majority of those relating to that part of the army which was then quartered about the town." *Ibid.* p. 590.

The petitioners were called in accordingly; and being come to the bar, Colonel Mason did declare, that he, with the rest present, were come to present to the House a petition from divers officers of the army; and therewith presented the said petition,* which was taken in; and after, they withdrew.

Tuesday, May 12, 1657.

Mr. Speaker, according to former order, reported his Highness's speech on Friday last to the House at Whitehall, upon the humble Petition and Advice presented to him by the Parliament.†

* In which they declare, "that they had hazarded their lives against monarchy, and were still ready so to do, in defence of the liberties of the nation; that, having observed, in some men, great endeavours to bring the nation again under their old servitude, by pressing their general to take upon him the title and government of a king, in order to destroy him, and weaken the hands of those who were faithful to the public; they, therefore, humbly desired that they would discountenance all such persons and endeavours."

On hearing of this circumstance, "Cromwell sent for Lieutenant-general Fleetwood, and told him that he wondered he would suffer such a petition to proceed so far, which he might have hindered, since he knew it to be his resolution not to accept the crown without the consent of the army; and therefore desired him to hasten to the House, and to put them off from doing any thing farther therein. The Lieutenant-general immediately went thither, and desired that the debate on the petition might be put off till they had received the Protector's answer to what had been formerly offered to him. To this the House consented." *Ibid.* pp. 589—591.

† At the close of this speech, with which "Monarchy Asserted" concludes, and which is preserved *verbatim* in the printed *Journals*, the Protector says, "I cannot undertake this government with the title of a king." See *Appendix*, No. 4.

Dr. Welwood, as a proof that Cromwell "aimed to be king," asserts (though he gives no authority) that "a crown was actually made, and brought to Whitehall for that purpose." *Memoirs* (1700) p. 116.

The following passages from the letter of Sir F. Russel, which I lately

Tuesday, May 19, 1657.

The House, according to former order, resumed the debate upon his Highness's answer to the humble Petition and Advice.

Resolved,* that Lord Protector shall be the title to be inserted into the humble Petition and Advice; and that it be referred to a Committee to consider how that title may be bounded, limited, and circumstantiated.

lately quoted (*supra*, p. 115.) will sufficiently discover what had been the wishes and expectations of the Protector's family on this subject, and at the same time, the inadequate information which had been procured, even at *Whitehall*, so late as April 27th:—

"My Lord, I do in this (I think) desire to take leave of your lordship, for my next is likely to be to the Duke of York. Your father begins to come out of the clouds, and it appears to us that he will take the kingly power upon him. That great noise which was made about this business not long since, is almost over, and I cannot think there will be the least combustion about it. This day I have had some discourse with your father about this great business. He is very cheerful, and his troubled thoughts seem to be over. I was told the other day, by Colonel Pride, that I was for a king, because I hoped that the next would be Henry's turn." *Lansdowne MSS.* 823, No. 418.

"The Protector," says *Whitlock*, "was satisfied in his private judgment, that it was fit for him to take upon him the title of king, and matters were prepared in order thereunto; but afterwards, by solicitation of the Commonwealth's men, and fearing a mutiny and defection of a great part of the army in case he should assume that title and office, his mind changed: and many of the officers of the army gave out high threatenings against him, in case he should do it.

"The Protector," adds *Whitlock*, "often advised about this and other great businesses, with the Lord Broghill, Pierpoint, myself, Sir Charles Wolseley, and Thurloe, and would be shut up three or four hours together, and none were permitted to come into him. He would, sometimes, be very cheerful with us, and laying aside his greatness, he would be exceeding familiar with us, and, by way of diversion, would make verses with us, and every one must try his fancy. He commonly called for tobacco, pipes, and a candle, and would, now and then, take tobacco himself. Then he would fall again to his serious and great business, and advise with us in those affairs." *Memorials* (1732) p. 656.

* On the previous question, 47 had divided against 46: and on "the main question," 77 against 45.

Friday, May 22, 1657.

Sir Lislebone Long reported from the Committee to whom it was referred to bound the title of Lord Protector, the resolution of that Committee thereupon.

Resolved,* that the House doth agree with the Committee herein.

The question being put, that this paragraph, "that your Highness will be pleased to assume the name, style, title, dignity, and office, of King of England, Scotland, and Ireland, and the respective dominions and territories thereto belonging; and to exercise the same, according to the laws of these nations;" do stand in the Petition and Advice;

It passed in the negative.

Resolved by the Parliament, that instead of that paragraph, this clause be inserted:—

"That your Highness will be pleased, by and under the name and style of Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions and territories thereunto belonging, to hold and exercise the office of Chief Magistrate of these nations; and to govern according to this Petition and Advice, in all things therein contained, and in all other things, according to the laws of these nations, and not otherwise."

Saturday, May 23, 1657.

The question being put, that James Nayler be removed for a month, out of Bridewell, London.

The House was divided: *Yeas 38, Noes 49.*

So it passed in the negative.†

Resolved, that a Committee be appointed to attend upon his Highness the Lord Protector, to know when this House shall attend his Highness with this humble Petition and Advice.

Resolved, that this Committee do wait on his Highness so soon as the House riseth.

* On a division, 53 against 50.

† See Vol. i. pp. 370, 380.

Monday, May 25, 1657.

Mr. Downing moved, that in regard the noble lord was not there who was to report from his Highness, that short ingrossed Bill for changing the market day at Carlisle, might be read; which was done accordingly.

It passed, *nemine contradicente*, for a law, and it was ordered to desire his Highness's consent.

Mr. Bond moved for Colonel Bingham to have leave to go into the country, his sister being sick of the small pox, which was granted.

*Mr. ———** offered a Bill for the better maintenance of the ministers of Portsmouth, which was read the first time, and ordered to be read a second time on Saturday next.

Major-General Bridge moved that Colonel Louthian's petition, which was appointed for this day, might be read to-morrow; which was ordered.

Lord Chief-Justice Glynn.† I stand up only to acquaint you that the Committee did attend his Highness, who returned this answer: That he would meet this House this day, in the Painted Chamber at ten o'clock.

Mr. Fowell. I move that you present all the Bills that you have ready; for this Bill‡ is a changing of the government. It is worthy your consideration whether, if this Bill pass, you lose not all your business of this Parliament; should every Bill be required to pass the other House, before it be a law.

Mr. Grove. I second that motion, that all the Bills that are ready may be first presented. There is a clause that the altering the title shall not change or prejudice your proceedings.

* Blank in MS.

† *Whitlock* appears to have become weary of his distinction. "Having as chairman, dispatched the great point of the humble Petition and Advice, touching the title of king, which was now laid aside, I absented myself, as much as I could, from the Committee, that some other might be employed, in some other points relating to the Petition." *Memorials*, (1732) pp. 656, 657.

‡ The humble Petition and Advice.

The Master of the Rolls and *Mr. Speaker*, agreed that all the Bills are lost ; the Bill for assessments and all. Therefore would have all the other Bills presented before that Bill.

Mr. Waller. His Highness has no notice of any other Bills to be presented to him ; therefore you will surprise him. I move that only the Petition and Advice may be presented.

Lord Chief-Justice Glynn. There is a clause, already provided, against the dissolving the Parliament, which will preserve your proceedings a-foot.

The clause was read, but found to fall short.

Mr. Bampffield. I move to have all the Bills carried up, for it is very clear that no law can pass after this Petition and Advice, but by consent of the three estates. Another House may be set up to-morrow, and yet this House stand too. I should be sorry to surprise his Highness, but when he passed Bills before, his Highness had no particular notice of what was to pass, yet he gave his consent upon the knowledge he had had before.

Colonel Jones. I move that you would carry up no more Bills. It may be the way to lose your Bill ; for it is probable he will have time to deliberate. I desire rather it may be two or three days hence, and would only carry this Bill at this time ; also the Resolves touching the Commissioners and other matters. These indeed I would have carried up.

Mr. Bodurda. There is no need to carry up the Resolves now ; for the vote for 600,000*l. per annum* is security sufficient for all the rest.* Again, you must, if you carry up other Bills, make an Act to preserve the Sessions, as you did before.

Mr. Godfrey. I move that you present the Bills that you have ready ; for it is clear that the passing this Bill determines the power of making laws by this Parliament, without the other House. I move that his Highness may have notice that you are not ready.

* Meaning, no doubt, that for the sake of this Revenue-Bill the Protector would not consider as annulled the previous proceedings.

Mr. Pedley. I move for a short Bill to be drawn up to preserve your Sessions.

Mr. Lechmere. I move that a Bill may be drawn up to preserve your Sessions, and that will be sufficient; for I cannot give my verdict upon what was moved before, that no laws can pass without the consent of the other estates.

Mr. Recorder. The former Bill for preserving the Sessions, is sufficient to preserve this.

Mr. Speaker read the Act, and seemed to be of opinion that it would serve.

Amidst this debate his Highness's carriages passed by, and Mr. Downing espied them, and said his Highness was passed by. Some called out "Scout, scout!"* and *altum risum*. The former debates fell all asleep.

Mr. Speaker desired direction what to say or do; whether the clerk or he should read the Petition and Advice, or any part of it, and what he should say; and if his Highness did not consent, what should be entered. And he offered a question, that it should be read by the clerk and his Highness's consent desired thereunto.

Lord Whitlock. I move that you would insert in your question, not to read it unless his Highness desire it.

Mr. Grove. I move that the clerk desire his Highness to appoint a time when he will be attended about passing of the other Bills.

Major-General Goffe. I move that the doors be shut, and that the members that are gone out be sent for, and that the room be cleared of strangers.

Mr. Margetts. I second Mr. Grove's motion.

Mr. Speaker and *Mr. Bond.* It was never known that the House carried up any message themselves, but always by a Committee.

It was moved to declare whether the House will come hither again from the Painted Chamber.

Mr. Godfrey. I move that you make no resolution to

* He held the post of Scout-master-general.

adjourn hither again till you see the issue. You know not but his Highness, upon this meeting, may dissolve you.

Mr. Recorder. There is no sign of a dissolution. However, we are to provide for an adjournment hither, and not to take notice of what may happen in such cases.

Mr. Speaker. Though you make no adjournment you must come hither of course. You cannot stir till you have notice of his Highness being in the Painted Chamber.

There were other motions, but want of time thrust all out.

The Bill for Captain Arthur* was read and opened, and the debate adjourned till to-morrow morn.

The House being acquainted that a serjeant from his Highness was at the door, he was called in. It was Serjeant Middleton, who acquainted the House that his Highness was in the Lord's House, and commanded him to acquaint the House with it.

This misnomer of the place caused *ultum silentium*, and it was excused thus, and so entered in the book that his Highness was in the Painted Chamber.†

The message being delivered, there was no time for further debate; but it was presently moved that Lord Tweedale and Lord Eure should lead the Speaker to the Painted Chamber, which was done accordingly.

Mr. Speaker acquainted his Highness that the Parliament had commanded him to acquaint his Highness with the alterations in the Petition and Advice, and to desire his consent to the whole, *mutato nomine tantum*, and his Highness

* "For satisfying him for divers sums of money, disbursed by him for the service of this Commonwealth, out of forfeited lands, houses, or leases in Ireland." *Journals.* See Vol. i. p. 204.

† "The serjeant brings word, that Serjeant Middleton was at the door with a message from his Highness, and thereupon he was called in, and, having made two obeisances to the House, when he came into the middle of the House, with his mace in his hand, he declared to Mr. Speaker, that he is commanded by his Highness the Lord Protector, to let this House know that his Highness is in the Painted Chamber, and desires to speak with this honourable House; and thereupon withdrew." *Journals.*

presently gave his consent, and then made a short speech, as see hereafter, as also Mr. Speaker's speech; and the House returned again.

Mr. Speaker moved, that he might have time till to-morrow, to report his Highness's speech.

Major Morgan. I move that it may be made now; to the end no time may be lost. It is but eleven o'clock, and I hope we might so order our time, as to think of an adjournment after a short time.

Mr. Speaker hastened the question to adjourn, and so it was

Resolved, that the House be adjourned till to-morrow morning.

Tuesday, May 26, 1657.

Being the first day upon the new footing of the constitution, I came in and found the House debating about Captain Arthur's Bill,* which was committed, and all the members for Ireland to be added.

Colonel Sankey and *Major-General Bridge* moved, that Colonel Louthian's petition might be read, which was done and referred to the Committee at Worcester House; therein to be done as in cases of the like nature.

Lord Cochrane moved, that the Lady Stewart's petition might be read.

Mr. Speaker inclined.

The Master of the Rolls. I move that all private business may be laid aside. The weather grows hot. I hope we shall not sit all summer. I would have public business, as monies and the like, and the clamours for the public faith† attended to.

Major Morgan and *Major Aston* moved that the business of Ireland might be taken into consideration; which was of great consideration: otherwise, all the expense of blood and treasure spent there will be lost.

* See *supra*, p. 123.

† See Vol. i. p. 93.

Dr. Clarges moved, that the Bill for Assessments in Ireland might be brought in, before any thing further done for Ireland.

Mr. Pedley moved, that the Bill for Assessments in Scotland might also be brought in.

Mr. Godfrey. I move that you would make the report, which is of greatest consequence, touching his Highness's answer yesterday.

Sir Thomas Wroth. I second the wise motion by the Master of the Rolls, that all private business be laid aside for a fortnight, and that we go to those that are most public. It is all that the people are like to have for their monies. They are likely to pay well for it.

I would have you take the courage which belongs to your place, that you would not gratify every man, which is a hard thing for you to do, by receiving private business; as if we should perpetuate this Parliament.

Colonel Gorges moved for the privilege of a member, viz. *Mr. Denn*,* but it was put off till to-morrow morn.

Mr. Speaker. The report from the Speaker had the pre-eminence, ever since I sat in Parliament.

He made the report of his Highness's speech, and read the speech *verbatim*.†

Lord Chief-Justice Glynn. I move that this debate be put off till to-morrow; and to the end you may be an example to other Courts of Justice, that you would not delay that business of Lord Craven's; but go on with it now, seeing the counsel are waiting at the door, and it is at the parties' great charge.

This motion was seconded.‡

Mr. Bedford moved, that the Bill for recusants be read on Thursday; for Assessments and the Irish Bill on Friday.

* M. P. for Canterbury.

† Probably as it now appears in the *Journals*.—See *Appendix*, No. 5.

‡ "Ordered, that the debate upon this business be adjourned until to-morrow morning, the first business; nothing to intervene."—*Journals*.

Sir William Strickland moved that the report for York River be read on Saturday.

The counsel for Lord Craven were called in, viz. Mr. Finch and Mr. Allen, counsel, and Mr. Hartlipp, Solicitor.

Mr. Speaker. I move, that for the gravity of the House, while this cause is hearing, you, being as a Court of Justice, would not talk to one another, nor move out of your seats, nor stay in the gallery, in regard the House is thin.

He asked Mr. Finch who he was of counsel for.

He answered, he was of counsel for my Lord Craven, and moved that the petition might be read, which was done.

Mr. Finch. This is a supplication of the saddest petitioner that ever came before you, and it is the best entrance that ever was to have right in this business, to be admitted into this honourable assembly, where there ought not be trifling. It is not only a petition of grace, but of right.

Three sorts,—I. What did precede that vote of confiscation?

II. That which did succeed that vote, before the Bill of sale.

III. That which has been since the Bill.

In May, 1641, no man so short-sighted but might see the storm. He had leave to go into Holland.

The counsel made report of the rebellion breaking out touching Sir Charles Coote's letter, &c.

Mr. Finch. An endeavour, I may say a practice, to bring Lord Craven under sequestration. I will not perplex my evidence by setting forth the place where, and the like circumstances. Our greatest evidence is out of your Journals. We desire they may be read.

March 6, 1650. Under that date, appears both Sir Charles Coote's letter, Mr. Attorney-General's report, and all the proceedings thereupon.

The first thing offered was the license of the House of Lords of the 10th May, 1641, for Lord Craven's going over.

Mr. Speaker required the counsel to withdraw.

Lord Chief-Justice Glynn. I move that any member may stand up and move for the parties to withdraw; otherwise, all

the burthen will lie upon you. But another thing is considerable, whether you will not hear all parties, both the Attorney-General and the parties who are purchasers; for if you proceed to hear *ex parte*, you must hear it over again. At least let the parties have notice, and leave it to them to appear or not.

Mr. Speaker. I move that it may be known whether the purchasers have had notice. It falls out so that the Attorney-General and solicitors are both members, and so cannot, in person, plead at the bar. It is fit some counsel should be assigned in their place.

Sir Thomas Wroth. It will not be wise to hear parties on one side; but to adjourn till you can have all parties.

Colonel White moved, as from the purchasers, that counsel might be heard on their parts. (Some were named to me, as Serjeant Maynard, Newdigate, Dr. Turner, Mr. Walker, &c.) and likewise that counsel might be assigned for the Commonwealth.

Colonel Shapcott moved to have the counsel called in, and asked whether the other parties had notice.

Colonel Grosvenor. It matters not whether the parties gave any notice or no, for no counsel will presume to come hither without your order.

Dr. Clarges. It is not proper to hear counsel for the purchasers, but only for the Commonwealth; for the dispute lies between the Commonwealth and Lord Craven, who prays that a part of an Act of Parliament may be repealed.

The counsel were called in again.

Mr. Speaker asked them whether the Commonwealth or the purchasers had any notice.

Mr. Finch. I cannot say that the parties had notice, but the Attorney-General being a member of the House, could not but know it; and, for the purchasers, I am informed they took a copy of the order that we have.

The counsel again ordered to withdraw.

Mr. Speaker. I move to know what counsel you would have. Serjeant Maynard cannot be of counsel, because he is a member.

The Master of the Rolls. A case of 21 King James, touching one Nichols, who had a patent about customs, was heard here, where it was moved by Lord Coke that every member here was of counsel for the Commonwealth. So I would not have you assign any counsel for the Commonwealth.

We are both judges in the case, and counsel for his Highness and the Commonwealth. First examine the matter of fact, and then see whether there be need of counsel or no.

Lord Chief-Justice Glynn. It is true we are all of counsel for the Commonwealth; but we ill take care of it, unless we know the case, and how can we, unless it be opened to us on both sides.

In the case of a reversal of an attainder, a *scire facias* must go out. Here the purchasers are mediately, and the Commonwealth immediately concerned. For that case of Nichols, that was a grievance, a monopoly; so needed no notice to the patentee. But if you hear it, *altera parte*, you must, of necessity, hear it over again. Though the Attorney-General be a member, yet he is not excluded from caring and giving directions about the business.

Mr. Speaker. If you mean to give notice to the purchasers, you may as well put it off till next Parliament; for it is impossible.

Lord Whitlock. There are five hundred purchasers, and it is impossible to give them all notice; yet if some of them have notice it is enough; for though they have taken a copy of your order, yet they cannot come to plead before you without your order.

Several persons of the Commonwealth are counsel besides the Attorney-General and Solicitor; as those that attend your Treasury. I would have the orders general, that counsel may be heard on behalf of all parties; and that in the meantime it may be committed to Mr. Attorney and Mr. Solicitor-General.

Sir Gilbert Pickering. The purchasers have nothing to do, as to the confiscation, whether right or wrong. They have not an immediate, but only a consequential right to be

heard in this. I move that the counsel for the Commonwealth may take care in it.

Mr. Speaker. As to the matter of fact, the Order is general, to hear Lord Craven's business at the bar. So that the counsel on the other side had as much right to come here as Lord Craven's counsel.

Colonel Shapcott. I move to have Mr. Attorney-general and Mr. Solicitor-general called in; (they were in the Court of Wards,) and that they may be heard now, and all the parties concerned as purchasers, to withdraw.

Mr. Bond. I am not concerned as a purchaser of this or any other delinquent lands: but I should as soon have bought this land as any other; for there are many circumstances to make out this.

Sir John Barkstead. I am no purchaser of Lord Craven's estate; but, as the case is, either the Commonwealth, the purchasers, or Lord Craven, must be losers, and it is as reasonable that one should be heard as another. I believe the other parties will produce as many records and proofs as Lord Craven's counsel do. I shall desire you, Mr. Speaker, that a day may be appointed to hear all parties.

Colonel Cooper. This is a business of consequence; for it is not only tending to a reversal of a judgment of Parliament, but of an Act of Parliament.

If this business thrive, it is likely you may hear more of this kind. I would have you to assign counsel on both sides, and not give more favour to a traitor, a delinquent, an enemy, than you do to your friends; for your enemies cannot be concerned as purchasers.

Sir William Strickland moved, that a day might be appointed, and that counsel might be heard on all sides, if they please.

Mr. Moody. I move only to have the Commonwealth's, and not the purchasers' counsel. We are bound to make our bargain good.

Captain Hatsel moved to appoint the counsel for the Commonwealth positively to attend, and the purchasers, if they please.

Sir Richard Onslow. It is clear that men may be both judges and counsel. The judge uses in criminal cases to tell the prisoner that he is of counsel for him. All that the purchasers could say is, they have an Act of Parliament. There may be precedents found for reversal in such cases, upon an appeal. I am of opinion with that honourable person; that we are all of counsel for the Commonwealth.

Mr. Highland. An Act of Parliament is the greatest security under Heaven. I wonder to hear it said the purchasers are not concerned. They are most concerned of all. I have none of those lands: I bought some of them, but sold them again, being suspicious, lest the tide should turn.

The Parliament were the only judges who were traitors, &c. I find Craven and Stowell in the very front of the Bill of traitors. Certainly those purchasers have the best title under Heaven. Certainly, they ought to be heard. Lord Craven is but accidentally concerned: and so it seems it was accidental; for there was but one vote, and a false witness carried it.

Mr. Bodurda. I am sorry to see so little attention to this business. If you think fit to relieve Lord Craven, there will be cause of attention. It may concern the Commonwealth 2 or 300,000*l.* I would have two or three solicitors appointed to prepare the business. Counsel can but do the work of counsel.

Dr. Clarges. I did observe counsel on the other side at the door, ready to be called in, if you please. I desire that Saturday next be appointed for the day.

Saturday was appointed.

Mr. Highland offered a petition in the case of Rodney and Cole.*

Mr. Speaker. There is a cross petition, and you had better appoint it a day; otherwise you are in for this day.

Mr. Bond and *Mr. Lechmere* moved, that the Bill for Marriages might be read; which has laid a long time by you.

* See vol. i. p. 300.

Colonel Sydenham moved, that the petitions may be now read ; which, upon the question, was resolved.

The scope of *Rodney's* petition was to have an Act of Parliament to confirm the House's Resolves.

The scope of *Cole's* petition was, that the value of the goods was overset above 1000*l.* ; whereas most part of the goods were returned in Spain, and the remainder were not worth 100*l.*

The petitions were referred to a Committee ; and the Committee, to whom the petition of *George Rodney* and his wife was referred, was revived to that purpose.

Colonel Shapcott moved, that the Committee might have power to examine upon oath ; but

Mr. Speaker bade take heed of that.

Sir Gilbert Pickering. I move on behalf of that reckless person *Nayler*.^{*} If you care not for him, so as to let him have a keeper, he will die in your hands. His Highness has recommended it to us[†] to move you in it.

Mr. Lechmere moved to have all private business excluded for fourteen days ; but he was taken down by *Lord Strickland*.

Mr. Speaker moved, that both his motion was irregular, and he was irregularly taken down.

Mr. Lechmere. Your orders were broken, upon me, by that honourable person.

Sir Christopher Pack and *Lord Strickland* seconded that motion, for *Nayler* having a keeper with him.

Sir William Strickland moved, that *Nayler* might have a keeper ; but such a person as is a Quaker already ; that those that have not the plague may not be infected by him.

Mr. Grove seconded that motion, to exclude all private business for fourteen days.

Sir Christopher Pack. It is his Highness's desire to have a minister sent to *Nayler*. The truth is, he is very weak.

Major-General Skippon. I am not against sending a mi-

^{*} See *supra*, p. 119.

[†] He was one of the Protector's Council.

nister to him, and would be glad to hear any thing from him that might encourage you finally to release him. I am against having a Quaker go to him, or any favour at all, till you know something more of his application to you. I fear too much indulgence to him has hardened him in his way ; so I cannot consent to show him any favour till I find him deserve it.

Colonel White moved, to leave it to the governors of Bridewell to care for necessities for him.

Colonel Sydenham moved, that a keeper might be assigned him by the governors of Bridewell ; and a minister also, to convince him, if it be possible.

Resolved, that a keeper be assigned him. (I neg.*)

It was moved that his Highness might appoint a minister.

Mr. Grove and others thought it not proper, but would leave it to the governor.

Sir William Strickland. It is not fit that my Lord Protector's name should be used with such a miscreant's.

Mr. Bond. It is not fit to move any thing here of the Chief Magistrate's desire ; for his desires are commands.

Sir Gilbert Pickering. I move, that seeing it is his Highness's desire to appoint a minister, he might appoint one. He best knows who is fit for that purpose.

Resolved, that a minister be admitted to him.

Mr. Godfrey moved, that you were fittest to appoint a minister, and named *Mr. Caryl*.†

* This, probably, means that the writer of the MS. was for the negative.

† "Ordered, That the President and Governors of Bridewell, London, do assign a keeper to James Nayler, now in Bridewell ;" and "do permit a minister or ministers to have recourse to James Nayler, to confer with him." *Journals.*

This appears to have been the last order during the existence of this Parliament, on a subject equally disgraceful to the heads and hearts of the majority of that House, who ought to have discovered, long before this time, that the case of this self-deluded but inoffensive victim of their intolerance, required the skill of a physician rather than the severities of a gaoler. Nayler was, I apprehend, detained in prison till the

Major-General Whalley. I second the motion, that all private business may be excluded for fourteen days; or a month, rather: that you would meddle with none for a month, but what you are already possessed of.

Colonel Clarke. This is so good a motion, that you cannot reject it. I cannot move it for less than a month.

Mr. Bond. I move to make trial for a week; for if you have not private business, you will have no House.

Mr. Moody moved for a month's time.

Mr. Speaker. I move that you would try it for a week; for when private business was excluded for two months, you did less public than when you took in private. Haply, you may not sit a month.

restoration of the Long Parliament; when, "the 8th of September, 1659," it was

"Ordered, that James Nayler be forthwith discharged of, and set free from, his imprisonment in Bridewell, London; and that Mr. Speaker do grant a warrant for discharging his imprisonment, and setting him at liberty accordingly." *Journals.*

The religious society, with whose early history the name of James Nayler has been so often connected, have long ceased to attract the public attention, except by readily joining their fellow-citizens in all attempts to promote "peace on earth, and good-will amongst men." Nor can I satisfy myself to conclude this subject, so disgraceful to men who professed to be Christians and free citizens, but who "knew not what spirit they were of," without quoting the following just and candid view of Nayler's case, from the compilation to which I have been frequently indebted, and in which his *recantation* is preserved:—

"We have not taken notice, in this *abstract*, of that rigorous sentence pronounced against James Nayler by the Parliament, in 1656, and most severely executed; in regard that Nayler was, in the cause of those sufferings, justly censured by the generality of his own persuasion; to whom he was not reconciled again, till he had passed the bitter pangs of a sincere repentance. Howbeit, 'twas very observable that he endured his extreme punishment with a patience and magnanimity astonishing to the beholders. [See vol. i. p. 265, 266] And many were of opinion that, had not the blindness of their zeal who condemned him been at least equal to the blackness of his guilt, a punishment much more moderate might have sufficed." See "An Abstract of the Sufferings of the People called Quakers; from the time of their being first distinguished by that name." (1733.) i. 168.

Mr. Disbrowe. I am sorry that private business should be the only reason of the House coming together. I have known private business hinder men from coming. I mean, by excluding private business, such as have not a day fixed.

Sir Gilbert Pickering. I move that you would not exclude private business at all, because of the difficulty to distinguish, and you are makers of your own judgments. It is equal that poor people that cry to you should be relieved, &c.

Resolved, that no new private business be received for fourteen days.*

In the Speaker's chamber sate Lady Worcester's Committee. Colonel Gorges in the chair. Adjourned till Thursday morning, and dispatched all but a proviso for saving the purchasers' and other estates.†

* *Journals.*

† The following state-paper was published at this time; and is too much connected with the now increasing embarrassments of the Protector's Government, to be here omitted.

"*Whitehall, May 26.* Some discovery was made about the dispersing of the treasonous pamphlets formerly mentioned; written to infect men's minds with that inhumane and damnable doctrine of privy murder and assassination.

"Beyond the Tower, six or seven parcels of the said books, made up like bales of silk, and which seem to have been brought from beyond the sea, were seized by some officers, who, attending there to observe such as might convey away customable commodities, and perceiving a man slyly to convey the said parcels ashore, questioned him; and he betaking himself to his heels, ran away, leaving the parcels behind him.

"There was also one stranger apprehended, with a bundle of the same books under his arm. This man was formerly one of his Highness's life-guard; but being found to have a hand in that seditious pamphlet, published two years ago, intituled *Quaries*, written on purpose to pervert those who are called Anabaptists, and disaffect them against the Government; he was for this cause a-while imprisoned, and cashiered; but being afterwards set at liberty, he, of late, hath been privy to Sindercom's business; since which time he hath been beyond sea, and now being returned, was found going to scatter these devilish books, which seem written on purpose to promote the said design. The said Sturges being this day brought hither, hath been under examination before his Highness, and stands committed to the Tower of London." *Mercurius Politicus*, No. 363.

Wednesday, May 27, 1657.

The House, according to former Order, resumed the debate, adjourned yesterday, upon his Highness's speech.

Mr. Lechmere was moving, when I came in, that the Petition and Advice may be printed and published, that the people may know how they shall be governed.

Mr. Pedley. I move not to publish it till you have perfected the additional Resolves; because some of them are explanatory, some restrictive, of the several articles of the Government; and I would have all printed and published together.

Mr. Bedford. I move, that the Resolves may be read, to the end you may know what you have to do else; and then you may resolve to publish them together, or apart.

They were read, till the titles of the Ordinances confirmed came to be enumerated.

Major-Generals Goff, Whalley, and Kelsey. It is not needful to read all the titles over, but only such as are fundamental to the Government; but it is not fit to publish it till the explanatory votes are finished.

Mr. Godfrey. Read them all over, that you may know what to refer, and what not.

Mr. Pedley moved, only to go on with the Bills that concern monies, and refer the rest to the Committee in gross.

Major-General Goff moved, to skip over the enumeration of the Acts and Ordinances, and read on, the rest of the Resolves.

Colonel Shapcott. Refer the particulars, as that of the Penalties, to a Committee. As for the Acts and Ordinances, if you intend to revise them, so as to put them into several Bills, it will be at least two years' time.

Mr. Bampfield. I move, that all may be read, to the end that we may know what we have done. It is slipped out of some of our memories. I move, to put a fair question; not upon reading the titles only, but upon all the Resolves.

This was put to the question.

Mr. Speaker declared for the *Yeas*.

Mr. Berkeley for the *Noes*. But the House being informed that some were withdrawn before exceptions were taken, and the exceptor standing up, and saying he was satisfied, it was waived; and the several titles and the Resolves were all read.

Mr. Bond moved, that the Petition and Advice be printed and published.

Sir William Strickland. Rest is the end of settlement; peace the end of war. Now we are come to settlement, after all our fluctuation; let us improve it, so as the people may know it. Therefore I would have it printed and published.

Colonel White. I move to have the distribution of members, and that about tryers putting out, to be cared for before you make the rest public.

Mr. Lechmere. I move that you would tread in the steps of your ancestors; and since this is a law which binds all the nation now, let it be published, and not stay for the rest; which I hope will be done this Parliament, and that speedily. This is to us now as a *Magna Charta*.

Colonel Philip Jones. I move to print the Resolves also, as well as the Petition and Advice. I think it may be as safe not to print the Petition and Advice for a time, as not print the Resolves with it.

Lord Fleetwood. It will not be for the honour of the House to print the one and not the other. I therefore move, that both may be printed.

Lord Strickland. This is the first time that ever I knew a Parliament print their Resolves. I would not have the Petition and Advice printed without the other being perfect.

Colonel Jones. The nation will think it strange that you should print and publish a law, and then presently after, publish what is quite contrary to some part of it.

Mr. Fowell. I move, that it may not only be printed but published. If it had been King,* it would have been published.

Colonel Holland. It is no new thing for a Parliament to print their Resolves: The Long Parliament did it in matters

* Against which he had voted.

of the highest nature; as that which declared it treason for the King to set up his standard.

Mr. Speaker. The Petition of Right * was published one time, and the *Articulus super Chartas* presently after.

Mr. Bampfield. Men are at a great stand how to act, knowing how many material alterations are in the Government. Therefore I would, for public satisfaction, have it published. It will save the nation a labour of writing it over; for every man will have a copy that looks after these things.

Mr. Godfrey. I move that it be one entire question as to the printing both the Petition and Advice, and the Resolves, for they mainly depend upon one another.

Mr. Speaker. From information of the Clerk, the Resolves are not yet fit to be printed till they be amended.

Colonel Sydenham. It is fit they should both be printed, otherwise they will not be sense. Some things in the Petition you have quite altered, as that of the tryers, and the business of monies not to be levied but by consent of Parliament. This will render you very uncertain in your resolution, if, a month hence, you publish what is quite contrary. Something in the 15th article is scarcely sense; that about laws being of force whether under the title of King or Protector; † for in the beginning you say the title of Protector shall be the title. I would have the Resolves made laws before they are printed.

Colonel Briscoe. I move that the Resolves be made into a law, and then both printed together; as well the amendments in the Petition and Advice as the Resolves, all printed together.

Resolved, that a Committee be appointed to put these Resolves into a bill or bills.

* Passed June 2nd, 1628. "The King's Answer" being considered by the Commons as unsatisfactory, he came to the Parliament, "commanded the clerk to cut out his former answer, which was entered in the Journal, under the Petition of Right," and to insert this more unqualified assent, "Soit Droit fait, comme il est désiré."—*Parl. Hist.* viii. 146-151, 201, 202.

† There are no such words in this article. See *Ibid.* xxi. 140.

Mr. Godfrey moved, upon the 6th article, that provision may be made for the continuance of Parliament. The article* says, that they shall be according to "the laws and statutes of the land." There are none now in force but the Triennial Bill, which gives only fifty days, and surely you will not leave yourselves worse than before. I move that triennial Parliaments may continue for six months, and other Parliaments for three months.

Mr. Lechmere. I second that motion, and also that you would care for the distribution of your members; for there is no provision for Scotland nor Ireland at all, and the members for England are very unequally distributed.

Sir William Strickland. I second that motion to set down a time for Parliaments to sit. That was the great slavery that the nation was under; that for an impeachment against any great person, or other matter, a Parliament should be dissolved.

Colonel Briscoe and *Mr. Godfrey.* Conclude about the time of continuance, and for the other, do as you shall think fit afterwards.

Colonel Philip Jones. Consider how consistent that would be with what you have already passed. I would have the article read, and refer it to the Committee to suit it.

Colonel Sydenham. I would not leave a matter of that fundamental weight, as the distribution of members, to a Committee, without some directions. I would not prescribe the Instrument of Government to be your direction, yet they might have an eye to it.

Sir Lislebone Long. This is a business, indeed, of great weight. It is true, the Instrument of Government has provided for the distribution of members, better than before.

I would have a day appointed fully to debate it, before you refer it to a Committee. Besides, that provision about choosing members is very uncertain. Though you say now but such shall choose as have 200l.,† yet there is no

* See *Parl. Hist.* xxi. 135.

† According to *Art.* xviii. of the Instrument of Government. See *Parl. Hist.* xx. 255.

way to try that, and many strange elections have happened upon it.

Mr. Bond. I move, that you would take it up either in a Grand Committee or in the House ; but not so hastily as to-morrow.

It was resolved to be taken up in the House on this day se'nnight.

Lord Chief-Justice Glynn. I move, that for a week or a fortnight's time you would go on only with the business of monies, and nothing to intervene.

Major-General Skippon. I move that you would also take care about the arrears in the hands of the trustees of Drury House. There will be, as I have heard, about 80,000*l.* discovered.

Lord Whitlock. There is a Bill for the Postage, and for Probate of Wills, which will raise you a good revenue. I would have that also dispatched amongst the Bills for monies.

Mr. Bond. I move, that the Bills for Assessments, and Excise, and Customs, those three might be dispatched first, and let not the Recusants, or any other Bill, thrust them out.

Mr. Bedford. The Bill for Recusants was appointed for to-morrow. I desire that you would not put that off.

Dr. Clarges. I move that you let the report for Recusants go on. It will raise you a considerable sum.

Sir Christopher Pack. Explain what you mean by assessments. Whether you mean only that for three months, or for the 600,000*l. per annum* besides.

Colonel White. I move that it be referred to your Committee, to prepare an oath for his Highness to take, according to a clause in your Government, or else leave out the clause. And also that an oath be prepared for all members of Parliament, and all officers of trust to take.

Lord Strickland. I move that you first, as you first were moved, go on with the most material ; that is, matter of money.

Mr. Speaker. You should methodize your proceedings,

and consider whether you will not take the Recusants' business first. Some cried, *Yea, Yea*.

Lord Chief-Justice Glynn. The Recusants' business may be best put off. Rather proceed upon the assessments and excise.

Mr. Godfrey. The business of Recusants may best be postponed. It will rather take monies, than yield you any ; especially if you go by way of the oath of abjuration. You will but leave a door for them to creep out at.

Colonel Sydenham. There is something in the Petition and Advice, which needs not only some explanation, but an expunging. You say, that in the 15th article all Acts shall be valid under what title soever they pass, either as Protector or King, and surely you will not make laws in both names, and leave the nation at a loss which you do adhere to.

Mr. Downing. The alteration of the title was only in compliance with his Highness's conscience. I would have it stand as it does. It may be that his conscience may receive conviction.

Lord Chief-Justice Glynn. The first that was moved, was about an oath. I desire that that may be first determined before any new motion be received.

Captain Hatsel. The usual way to thrust out one motion is to make another. I desire that that part of the adjustment may be explained. You will not surely make laws under two titles. Let the nation be satisfied that you are agreed in the alteration ; and not continue it under that uncertainty, which will not be ingenuous.

Major-General Jephson. There are some so out of love with those four letters, that we must, I think, have an Act to expunge them out of the alphabet, and that is my humble motion.*

* Such language, especially just after Scout-master Downing's speculations on "his Highness's conscience," well agrees with what *Ludlow* in the following paragraph, has attributed to this speaker ; a calculating courtier, who could "weigh well the wages with the work assigned," though it has not appeared in the *Diary*, that he "moved in the House." We have found (Vol. i. p. 362) "Mr. Ashe the elder," giving the first

Thus one motion jostled out another, and nothing was concluded, more than was before agreed, as see the Journals.*

In the Queen's Court sat the Committee, Temple against the Earl of Strafford, Major Aston in the chair. Mr. Finch of council for Lord Strafford, and Mr. Green for Temple.

Answer only put in, and adjourned till this day se'nnight.

hint of a new royalty, which Alderman Pack followed up, in terms more explicit.

"Colonel William Jephson, one of the Members that served for Ireland, moved in the House, that Cromwell might be made king; but matters not being thoroughly concerted, it had no other effect than to sound the inclinations of the assembly. Cromwell, having notice of this motion, as he had of every thing that passed, reproved the Colonel gently at table for it, telling him he wondered what he could mean by such a proposition. To which the other answered, that whilst he was permitted the honour of sitting in that House, he must desire the liberty to discharge his conscience, though his opinion should happen to displease. Whereupon Cromwell, clapping him on the shoulder, said, '*Get thee gone, for a mad fellow, as thou art.*' But it soon appeared with what madness he was possessed; for he immediately obtained a foot company for his son, then a scholar at Oxford, and a troop of horse for himself." *Memoirs*, ii. 582.

Waller, an unprincipled politician, and whose muse, worthy of a nobler office, was ready to become the *Laureat* of any Power in possession, was now returned from a well-merited exile, in 1644. He thus sang of "our great Protector," in his poem on "the fight at sea, September, 1656, and the captured Spanish treasure:"—

"His conquering head hath no more room for bays,
Then let it be, as the whole nation prays.
Let the rich ore forthwith be melted down;
And the State fix'd, by making him a crown,
With ermine clad, and purple, let him hold
A royal sceptre made of Spanish gold."

* "Ordered, that these Resolves be referred to a Committee, (consisting of all the gentlemen of the long robe, and sixty-eight others) to peruse the same, and methodize them; and to prepare one or more Bills thereupon, and offer them to the House."

"Resolved, that the debate concerning the constitution of Parliaments, the distribution of members to sit in Parliament and continuance of Parliaments, be taken up in the House on this day sevensnight; and nothing to intervene.

"Resolved, that the Bills which are for the levying and raising of money, shall be proceeded on, for a week following; and nothing else to intervene."—*Journals*.

Thursday, May 28, 1657.

Mr. Downing reported the Amendments to the Bill for the borders of England and Scotland,* which were all passed in gross.

Mr. Bond moved, that it might be felony for any person banished to return; which was resolved.†

Lord Whitlock presented a Bill in relation both to monies and intelligence, viz. about the postage.

The Bill was read, and was entitled “A Bill for the settling of the postage of England, Scotland, and Ireland,” and appointed to be read the second time to-morrow morning.

Dr. Clarges moved against the second reading of the Bill.

Sir William Strickland. I move that the Bill for tithes may be read, as was ordered. Though it be not a business of monies, yet we say, *decima et dives eris*.

Mr. Secretary reported a message from the fleet, by Captain Stayner,‡ who is a good man, and always brings good tidings. I have here a paper of the particulars, in a letter to his Highness, I desire it may be read.

A narrative of the action at Santa Cruz, 50 slain outright, 150 wounded, of ours.§

* “For the better suppressing of theft, and securing the good and honest people against all felonies, and other misdemeanours, daily committed in these parts.”—*Journals*.

† “That the blank, not to return, after transported to some of the plantations, be filled up with the word ‘seven,’ and the blank for the penalty, with the word, ‘felony.’”—*Journals*.

‡ A misnomer for Story.—See *infra*, p. 145, Note †.

§ “Mr. Secretary acquaints the House, with the good success the Lord hath been pleased to vouchsafe to the fleet of this nation, under the command of General Blake, at the port of Santa Cruz, on the Island of Teneriffe, on Monday, the 20th of April last; at which time, the said fleet fell in among five or six galleons; whereof were Admiral, Vice-Admiral, and Rear-Admiral, with their standard and flag aloft; and other considerable ships, making up the number of sixteen; some having goods brought from the Indies, still on board them; others had taken in goods and provisions to carry back again; most of them furnished with brass ordnance; and their full companies of seamen and soldiers

Mr. Secretary. The captain that brought the news was in the action, and said it was the hardest service that ever was. The enemies thought themselves so secure, that they wished the whole cause between us and Spain had depended upon this. The silver was all unladen and on shore; but several of the goods were taken. Not a ship was left, but all were burnt or sunk. Though we had received no benefit by it; yet certainly the enemy never had a greater loss.* It is the Lord's doing, and the glory be his.

Lord Strickland. I hope the joy of the news causeth the silence. I move that a day may be appointed for thanksgiving, and the captain that brought the news may be rewarded.

Dr. Clarges. I second the motion for a day of thanksgiving, and that not only the captain, but the General and all the captains may be rewarded.

Mr. Rouse and *Colonel Jones* moved to have a day of public thanksgiving set apart, and offered Thursday next for a day in London, and that day fortnight all the nation over.

Mr. Highland. Thursday is the Cloth-market day; † so moved on Wednesday, which was resolved.‡

Sir William Strickland. I move that, as a mark of your favour, you reward the General with a sum of money, 500*l.*; or a jewel, worth that sum. I proportion it to your purse.

Mr. Secretary. I shall not move against that; but the first thing in order is to appoint the ministers to preach. I desire that Mr. Manton may be one.

Colonel Jones moved, that Mr. Carter might be the other minister to preach; which was resolved accordingly.§

kept continually on board them; where all the said ships were sunk, blown up, or destroyed; the particulars whereof are contained in a Narrative now delivered in by Mr. Secretary."—*Journals*.

* It was computed that "the destruction of the fleet a year before, by Blake, and other losses, made the loss to the Spaniards amount to at least ten millions of pounds sterling."—See "The History and Life of Robert Blake, Esq. written by a Gentleman bred in his Family," p. 102.

† At Blackwell Hall. ‡ See *Journals*. § See *Ibid*.

Lord Strickland stood up, and moved, that Mr. Caryl might preach; but it was too late, there being but only two to preach.

The place appointed, Margaret's, Westminster; the day, Wednesday next.

A Committee appointed to desire his Highness's consent.

Ordered, that the Narrative be printed.*

Sir William Strickland. I hope that, though my motion was out of season, it shall now fare no worse for it, nor because it comes from me. I moved that 500*l.* might be given. I did proportion it to your purse, and not to his merit.

Dr. Clarges. I move that you would not regard your poverty, or any other arguments, but reward him like a Parliament; and that the General may have 1500*l.* and the Captain 100*l.*

Mr. Butler moved, that he might have a jewel of 1000*l.*

Mr. Speaker. I would remind you of what you have done in like cases. Naseby was great news, yet he † had but a jewel of 500*l.*; and in other cases the like. Your purse was never lower.

Colonel White. One very near akin to this person told me, he hath saved nothing by the service, but spent of his own estate.‡ I desire he may have a jewel of 500*l.*, and the Captain 200*l.*

* "And published, with the order of the House for the Day of Thanksgiving." *Journals.* See *Mercurius Politicus*, No. 364.

"Though the days of humiliation and thanksgiving ordered by Parliament," says *Blake's* biographer, "were subjects for raillery in the pious times after the Restoration, and even of ridicule on the stage, yet it is most certain, the observance of such days in the times we write of, was serious and in earnest; and was never appointed then out of form or ceremony only. Admiral Blake always kept them, and had them kept on board his fleet, according as they were appointed." *Life*, p. 103.

† The Lord General Fairfax.

‡ "The small, or rather no improvement of his private estate," says his biographer, "is an unquestionable proof of his disinterest; for he who enriched his country with so many millions, and had so many opportunities of amassing plumbs, as is now the phrase, to himself, and that with security to his honour, died so little richer than his father left him, 'tis not worth mentioning." *Life*, p. 116.

Colonel Jones. I do not measure the gift by his service; for if so, 15,000*l.* may be more proportionable than 1500*l.* Yet, this being a jewel, a special mark of your favour, (and as you have done before in such cases,) the favour is more than the value.

Resolved, that he have a jewel of 500*l.*,* and that the Captain† have 100*l.*; and that care may be taken by the Council for payment thereof.

Captain Mason moved, that every Captain in the Fleet might have a medal of 10*l.* presented to him; but this motion relished not.

Mr. Downing and *Mr. Moody* moved, that a letter of thanks might be writ by the Speaker, in the name of the House, to the General, which was resolved accordingly; and *Mr. Secretary* and *Mr. Downing* were appointed to prepare the letter.‡

* "As a mark of honour, and a testimony of his Highness's and the Parliament's resentment of his eminent and faithful services for this Commonwealth." *Journals.*

"All such presents, which were demonstrations of the public acceptance of his services, were grateful to him; but he had no conception of rewards in dignities and pensions, and had an extreme contempt for all honours that were not solid, and the effect of heroic deeds, as useful to the state, as glorious to the man." *Life*, p. 103.

General Blake survived this victory only a few weeks. "He died the 17th of August, 1657, aboard his ship, the *St. George*, as he entered into Plymouth Sound." After a public funeral, by water, from Greenwich, "the corpse was interred in a vault, made on purpose, in Henry VII.'s chapel;" and his biographer asks "the most prejudiced enemies to his cause, if there could be a place too honourable to lay the bones of so brave a soldier, and so true a lover of his country? But after the Restoration, the sacred remains of this General were hawled out of the place where they were deposited, and cast into a pit." *Ibid*, pp. 108, 109.

"His body," says *Wood*, "was taken up (1661, September 12), and with others buried in a pit, in *St. Margaret's church-yard*, near to the back-door of one of the prebendaries of Westminster; in which place it now remaineth, enjoying no other monument but what is reared by his valour, which time itself can hardly deface." *Athenæ Oxonienses*, (1691.) i. 825.

† "Story, as a reward for his good news from the Fleet." *Journals.*

‡ See *Ibid*.

Colonel Edwards. I move that Captain Stayner may have a jewel of 200*l.* He has been named, but not spoken of.*

Mr. Bond (and others). It is not fit to reward one, lest you put a slight and disregard upon others. It will cause a quarrel in the fleet. I wish you had monies to reward them all.

Colonel Jones moved, that some provision might be made for the widows and orphans of such as have been slain in this action.†

Mr. Bedford. *Mr. Manton*‡ is out of town, and will not return this fortnight. So I move, that *Mr. Jacob* may preach in his stead.

Lord Strickland moved, that *Mr. Caryl* might preach.

Colonel Holland and *Major-General Whalley* moved, that the vote of thanks might be given to the officers of the fleet, as well as to the general; and that the collections for the poor that day might be distributed to the widows and orphans. But this was thought a poor motion, to reward our soldiers' wives by going a begging for them.

Dr. Clarges. I move that *Mr. Denn*, a member of the House,§ being prosecuted at law by one *Michael Beavor*, an attorney, may have his privilege.

Mr. Denn stood up, and said, this *Beavor*, in *Michaelmas* term, had caused him to be sued to exigent, || and had promised to forbear prosecution; and thereupon he, *Mr. Denn*, thought to have passed it by.

* "On Captain Stayner's coming to England," says *Blake's* biographer, "Oliver knighted him for his former services; but King Charles did not think proper to acknowledge the knighthood of this brave man, because he was only knighted by the greatest soldier of his, or any other age; but being ashamed to deprive Sir Richard Stayner of an honour he had so highly deserved, it was conferred on him again by King Charles II., though not the greatest soldier of his age." *Life*, p. 105.

† It does not appear from the *Journals* that this just and merciful proposal received any attention.

‡ See *supra*, p. 143.

§ For Canterbury.

|| "A writ, where the defendant in an action personal cannot be found, nor anything within the county, to be distrained." *Dict. Anglo-Brit.*

But, it seems, he prosecutes it still against him; and, therefore, he moved that it might be assigned him his privilege.

Resolved, that Beavor be sent for, in custody, as a delinquent.*

The Bill for assessments upon Scotland was read, and appointed to be read a second time on Saturday next.

Mr. Bedford offered his Report for Recusants.

Mr. Speaker called for the Bill for Irish Assessments, but it being not ready—

Mr. Bedford went on, and made his Report.

It happened that *Mr. Speaker* spied the last sheet of the old Bill lost, viz. *prima vice*, and *altera vice, lecta*, which is a part of the record, and the clerk's warrant. He therefore informed the House of it.

Lord Whitlock. Some particular order may be made (according as the truth is, and as in our private capacities we all know,) to help this casual accident. It may be supplied that way, for saving your time; or, otherwise, you must read the other Bill the first and second time.

Mr. Bedford acknowledged his ignorance; being a young Parliament-man, he was ignorant as other men, and nothing being writ on that leaf, it was casually lost.

Mr. Lechmere. This is a new case. The entry is the record thereby to know that this is the Bill that was committed; and though you may find by the Journal the days of the first and second reading, yet you cannot tell that this was the Bill.

Lord Strickland. This is such a formality as may shake all your foundation, and I had rather read a Bill twenty times over than lay such a precedent.

Mr. Bedford went out and found a dirty paper in his lodgings, as he said, with the indorsement, and brought it in.

Mr. Speaker. Your formalities are the very essence of Parliaments, and you ought to be tender in this case.

* "For his contempt in breach of the privilege of this House." *Journals.*

Mr. Godfrey. I move to read the Bill over again, rather than lay a foundation for such a precedent. Though you have a dirty paper before you, yet you cannot tell whether this be the same sheet that belongs to that Bill.

Mr. Bedford. I am certain that this is the same paper, and aver it upon my reputation to be the same.

Lord Whitlock. As there is a care to be had of the circumstances and formalities, as the essence of your proceedings, we are also to credit what a member says, and be tender of him. A great deal of credit, and honour, and respect, are to be given to one another. He has averred it upon his credit. I desire you would credit him. I can witness for him, that he has taken great care and pains in the business.

Mr. Bampffield. I move that the first amendments may be read, for there are amendments upon amendments.

Lord Chief-Justice Glynn. By this it seems the whole Bill was committed, and all altered but the title; so you ought to pass the old amendments as well as the new.

After a debate upon the order of their proceedings *pro et contra*, the debate was adjourned till to-morrow morning, nothing to intervene, and the House rose at one o'clock.

Friday, May 29, 1657.

Colonel Jones. I move that the Bill for the postage may be read; which will be both a business of monies and safety to you.

Mr. Bedford. The Bill for Recusants* was appointed to be reported this day, and nothing to intervene.

Colonel Jones said he was satisfied, for he did not know of the debate adjourned.

The amendments were read and passed, till it came to the oath.†

* "Intituled an Act for discovering, convicting, and repressing of Popish Recusants." *Journals.*

† Against Transubstantiation, &c. See Mr. Bond, *infra*, p. 150.

Mr. Bampffield stood up and excepted against it, and compared it to the Spanish Inquisition, and the oaths *ex officio*. He moved rather that they might be indicted of popish recusancy, which might be easily made out, by their maintaining these principles.

Mr. Bampffield observed the Speaker speaking to the clerk, and moved that it was usual with him to do so while men were speaking, but it was against the orders of the House.

Mr. Speaker laboured to excuse himself, but could not come off very well. He said, "I only spoke to be informed about the order of your proceedings."

Mr. Bedford. This was debated in a full and great Committee for two hours, and they could find no other way of conviction.

Lord Strickland moved against the oath, and said indeed it was more than the Inquisition, which puts a man upon his own purgation, and if men will but abjure they will escape the Inquisition; and *Mr. Mole* died under the Inquisition for not taking an oath. These are nice and controverted points, which may stagger a protestant.

Again, there is no warrant for this by the laws. I know no way of conviction but by juries, or two witnesses; they may have dispensations for it, and then your design is out of doors. I would have them convicted by having ministers to converse with them, and so discover their idolatry, the *onus probandi* lies upon the accuser; the party stands *rectus in curia* till then.

Captain Baynes. It is against the laws of Englishmen to impose this oath. I move rather to convict them upon the Bill for the sabbath,* which requires men to come to the public place of worship. I would have the Bill recommitted. Again, we ought to look at the privilege of the English abroad,† to do as we would be done by.

Major-General Whalley. I move that the oath may stand. It is the best way, and I wonder it should offend any man

* This Bill was now in progress, and passed June 29.

† In Catholic countries, where they might expect retaliation.

that is enlightened. Our principles and theirs differ; though on Englishmen abroad an oath may be imposed. I think none ought to refuse his faith when he shall be put to the test.

The Master of the Rolls. It is not regular to speak to the oath now, in regard this was part of the Bill. I would have that cleared, to the end we may understand it, what we have to speak to.

Mr. Godfrey. This amendment lies before you as an amendment. A vote has passed upon one part of the amendment, and upon the rest no vote at all.

Mr. Speaker read the clerk's entry upon the paper, which was intitled "Amendments to the Bill," &c.

Mr. Bedford acknowledged they were but amendments: but there were but two or three words different from the oath in the Bill.

Colonel Philip Jones. I never had love to oaths of this kind; but I doubt that about coming to church will be fruitless, and they are a spreading generation.

Mr. Bond. I move that your question may be for an oath; but not with those clauses of transubstantiation and purgatory, and the like. It is a dangerous precedent. We do not know what times may come. Those things may be asserted for truths, and we, under some penalty, may be compelled to swear to them.

The oath was read upon this motion.

Colonel Briscoe. Divers worthy gentlemen have fully spoken against this oath. I shall give you my reasons why there is no necessity for this oath.

In the county for which I serve,* we have as great a number of them as any where. Most of them that have any estates are under sequestration. Other ways may be found out besides this. Though the face of public worship of late be discouraged,† yet we have such places to try them.

* Cumberland.

† This speaker probably refers to the tolerating spirit of the Protector's Government, (a redeeming passage in the history of his usurpation) and the consequent connivance respecting separate assemblies.

1. It is against that great maxim of law, that no man is bound to betray himself; the greatest traitors and felons, that are actually and known enemies. The equity extending to them, surely it ought to be extendable to such as are but suspected from their principles. Haply some may desire to live peaceably.

2. This is a very discovery of a man's thoughts and his conscience before God.

Consider how the times when this was imposed (as in the Long Parliament*) differed from this. Then was a time of war. Courts of Justice were shut up, so that there was no way of conviction. The necessity ceasing, the thing ceaseth.

3. You have condemned oaths of this nature. The oath *ex officio* had your sense and severity, and to revise that, is not reasonable. The ecclesiastical courts were put down upon this.

4. You hold forth a liberty of conscience, and such, as his Highness observes, was never since Christ's time. Consider what an indulgence and favour you hold to one sort of unsound persons, and so severe against others; though the one may be as unsound as the other. It is neither of ingenuity nor integrity.

5. An argument was used by an honourable from the bar, about the oath upon the Cavaliers, in the debate about decimations. It will only fall upon the most conscientious. It will be but to others drinking another glass of sack. I told you of one of this kind in my own experience. You must needs draw yourself into a guilt by imposing such an oath upon persons that are devoid of conscience, and haply lose

* Who, while contending for liberty against Charles, would have rendered their popish fellow-citizens the most abject slaves. In their "humble Petition and Advice," presented to the King, (1642,) they require, in their 7th proposition,

"That Papists shall have no vote in Councils, and that their children shall be brought up in the protestant religion," a most cruel interference with parental authority and affection, which I quote from Ludlow's *Memoirs*, (i. 34) where, I regret to add, it appears without even the least token of disapprobation.

your ends as to the revenue. I would have a clause added, that the ministers and churches may be enjoined to present them. They are well enough known over all England. In our parts they are. I would have articles against them, and let them clear themselves, by proving that they come to some public place of worship. I would have the Bill committed upon this account.

Major-General Boteler. That way of presentment will but amount to a suspicion; which is no conviction without further proof. I grant, to an Englishman, an oath to accuse a man's self ought not to be put, but I look upon them as persons otherwise than Englishmen. I look upon them as enemies; and, upon that account, would not have them have the liberties of the laws. Therefore, I would have the question put for the oath.

Sir John Thorowgood. I move to acquaint you with a passage that happened at Hicks's-hall about a year since. Six of them were taken together by the Lieutehant of the Tower. Three or four of them were brought to be tried. One of them confessed at the examination; and though he was an Irish priest, and all those things were pressed upon the jury, they would not find it.* There can be no other way but by this oath. I know they increase daily; and are still contriving mischief against you. I would have them be conversed with by ministers, to convince them if it be possible.

Mr. Butler. I know where they have increased one hundred in a year, in one or two parishes. They keep up another jurisdiction† against you.

This is no imposing upon their consciences. If God should turn the tables, and men be put upon a test of their faith, I think no conscientious person would be against it. I think I may say that I have been one of those that have con-

* These jurymen appear to have entertained the just opinion asserted a few years before, by "an Independent Minister, within a few miles of London," who "had said, that papists should be suffered; and for his part, if he knew papists who were at their devotions of beads, images, &c. he would not have them hindered or disturbed." *Gangrena*, (1646) Part i. p. 46.

† Meaning, I apprehend, the authority of the Pope.

victed some hundreds. They will not renounce the Pope, that is your design. I have not felt the Spanish Inquisition ; but I have been under the prelatical oath *ex officio*, but this is different.

Will you suffer the limbs of Antichrist to grow rich within your bowels? Is this the profession to improve all your interest for God, the Protestant against the professed enemies?

Mr. Godfrey. It is true we ought to improve all our interest for God ; but it must be according to conscience. We must not lie for God. That gentleman offered several texts of Scripture. I should have been glad to have heard one. I know one text against it. As it was said to Pilate, “ ask them which heard me :” * he would not accuse himself. This is not only to question what a man teaches, but what he thinks, what he believes.

Admit them to be never so bad ; to be the worst of men : to give the Devil his due, this is no argument to you to do injustice. I think they are the worst of men ; and imitating their practices, the worst of their practices, is to imitate the worst of men in the worst of practices. I know no difference between it and the Inquisition ; only the one racks and tortures the purse, the other the person and the body.

You have said much of liberty of conscience. I know it is a precious privilege, and God’s throne, while they keep their faith to themselves. This clause is inconsistent with the principle so much spoken of, though misunderstood. It differs nothing from the oath *ex officio*, which was reckoned the highest tyranny upon conscience that ever was.† It agrees in the species, differs in the particulars ; they went about, you go downright.

It is no rule to me, *malorum injunctum est eligendum*. This to me is *malum in se*, to search into men’s consciences. You

* *John* xviii. 21.

† One of the great blemishes in the overvaunted reign of Elizabeth. This oath *ex officio mero*, was first imposed in 1584. The Queen empowered her Commissioners “ to examine such persons as they suspected, upon their corporal oaths, for the better trial and opening of the truth, and to punish those that refused the oath by fine or imprisonment, according to their discretion.”—See Neal’s “ History of the Puritans.” (1822) i. 333.

ought not to punish them unless you can justly punish them, *fiat justitia*, &c. I know no such strait as is said; that you have no other way.

As in the case of treason, which is as secret as any, you put not men to accuse themselves. If it hold in this, it may fall in as an argument in case of treason, felony, and all things else that you cannot prove.

It is a rule to proceed *secundum allegata et probata*. To swear a man's own innocency is neither *probatum* nor *allegatum*.

They may avoid the matter of the oath by their distinctions, as instanced in several parts; as that about images and ecclesiastical censures. There are so many evasions and distinctions, that you will have no security by what you propound. Again, that principle of *fides cum hereticis* will break out upon you, whenever they see an occasion to advance the Catholic cause. I move that it may be recommended, and some other way found out.

Mr. Speaker. I have a letter to offer you from his Highness. The report is long, and I desire your directions.

The question was called for, and the oath read.

Colonel Holland and Mr. Bond. Some gentlemen are for the first part of it, as to abjuring the Pope, that are not for other parts of it. Some parts of it may be returned upon us; new doctrines being daily afoot, and such changes, it should not be left as an ill precedent.

Major-General Boteler. I would not have us, for fear of ill consciences, to forbear to execute a good conscience. Now you have put the question once entire, you cannot put it in parts. The question being put,

Mr. Speaker declared for the *Yeas*.

Mr. Highland for the *Noes*.

The *Yeas* declared to go out, because it is the bringing in of a new law.

Colonel Sydenham and Major Wagstaffe moved, that those that are withdrawn might give their judgments one way or another, viz. Lord Whitlock, Mr. Secretary, Lord Lambert, and others.

Colonel Sydenham pressed that it was an ill precedent.

Noes 53. Mr. Godfrey and Mr. Bampffield, Tellers.

Yeas 51. Mr. Podley and Mr. Bedford, Tellers.

So it passed in the negative; and the Bill with the amendments, was recommitted.

The letter from his Highness was read, which was to declare his intentions to adjourn or prorogue the Parliament from the 20th of June to the Michaelmas term; and desired us to apply ourselves to perfect the business of the Petition and Advice.

Major-General Whalley moved to have it referred to a Committee, to consider what Bills are fit to be perfected in this time.

The Master of the Rolls. We were beholden to his Highness for this recess. I would have you first to apply yourselves to the business of the 600,000*l.* for monies for three years.

Captain Hatsel. I move for an order to meet expressly at eight o'clock. Much business may be done to-morrow.

Colonel Holland. There are little fruits of such meeting at eight o'clock. I would have you first go on with the business of monies, and nothing to intervene.

Sir William Strickland. Next the business of monies, without which there can be no safety, it were brutish to think that without arms we can be safe, and without monies, no arms. I move that the business of Religion be considered with a *quarite primum*.*

Mr. Fowell moved, that the Bills for monies might be first taken up, and that the petitions which obstruct the Bill for buildings, be put off.

Mr. Downing and *Mr. Fowell* moved, that the Bill for the postage might be read; which was done accordingly.

Lord Deputy and *Major Morgan.* Before you lay Assessments upon Ireland, you should dispatch the Bills for the settlement of Ireland.

* An allusion to *Mat.* vi. 33, and *Luke* xii. 31.

The Bill for the postage* being read and opened,

Sir Thomas Wroth. This Bill has bred much talk abroad since yesterday. The design is very good and specious; but I would have some few words added for general satisfaction: to know how the monies shall be disposed of, and that our letters may pass free as well in this Parliament as formerly.

Lord Strickland. When the report was made, it was told you that that will raise you a revenue. It is 10,000 *per annum* aid now, which before laid loose. It matters not what the reports be abroad, nothing can more assist trade than this intercourse. I would have the blank filled up. Our letters pass better, than in any part whatsoever. In France and Holland, and other parts, letters are often laid open to public view as occasion is.

Sir Christopher Pack. The design of the Bill is very good for trading and commerce; and it matters not what is said abroad of it. As to that of letters passing free for members, it is not worth putting in an Act. That may be obtained, any Parliament, from time to time.

Colonel Sydenham. I move that it may be committed to be made but probationary; it being never a law before; that care may be taken of property, that men's horses may not be taken to ride post; and that the blanks may be filled up.

Mr. Lloyd moved that it might be cared for about letters from foreign parts, according as in other parts.

Captain Hatsel moved, that the deputies might be enjoined at any time to carry the merchants' packets if they desire it and will be at the charge; sometimes, when their ships sail it may save them giving 70*l.* per cent., if that express be sent by the post.

It was referred to a Committee, to meet in the Star Chamber on Monday afternoon, at two o'clock.

Mr. Fowell moved that Lord Whitlock and Colonel Sydenham might be added to the Committee for the bills of buildings.

* "For the settling of the postage of England, Scotland, and Ireland."—*Journals.*

Mr. Lloyd. The adventurers for Ireland should have the common justice of the House, and the poor be regarded as well as the rich. I move that that Bill may be read.

Major Morgan reported amendments to a Bill for the officers in Ireland, which was twice read.

Mr. Lloyd. I move to postpone this; for it takes away what the adventurers should be satisfied with.

Colonel Cooper. There is not a farthing prejudice to the adventurers.

Sir Christopher Pack. I move, that for the honour of your proceedings, you would read both Bills together.

Major-General Kelsey. This is improper, to move for another Bill while this report is a-foot.

Major Morgan. This is no intrenchment upon the adventurers. I could tell something of that gentleman's allotment, how unreasonable it is, though it be twice read. The Bill he speaks of is, that every acre under twelve pence, shall be thrown in for waste. By that means you will fall short indeed. It was told you by a person that knows your orders well, that while the debate is upon the amendments you cannot debate upon the Bill.

There was likely to have been reflections and responses between Major Morgan and Mr. Lloyd, but it was taken up by Major-Generals Jephson and Kelsey. And the amendments all passed in gross.

The Lord Deputy moved that a rider might be added to this bill, for confirming his Highness's grant of 100*l.* per annum, in Ireland, for ninety-nine years, upon the wife and children of an eminent minister, one Mr. Moorcock.

Mr. Speaker and others. When the Bill is ingrossed, it is proper for any member to offer that rider.

Mr. Speaker. I have a letter to communicate to you from his Highness, touching the Irish officers. This was read, with a long petition annexed, and referred to the Irish Committee.

Colonel Philip Jones. Though the Bill for the Adventurers in Ireland was moved out of season; yet I desire that

they might not be discouraged. I therefore move it may be read on Thursday.

The Lord Deputy seconded it.

Sir Christopher Pack moved a shorter day, viz. Monday, which was done.

Mr. Speaker. I move, that you would declare your sense about Lord Craven's business which you have appointed to-morrow. It being chargeable for Council to attend, and if you put it off, it were good it were known.

Mr. Highland moved to put it off, and that Dr. Walker and other civilians might attend about the Commonwealth.

Captain Hatsel. To-morrow your honour will be arraigned, the honour of a Parliament, and you had need to have council that understand the case, viz. Dr. Walker, who is of council for his Highness, in the Admiralty.

Sir Christopher Pack and *Colonel Sankey.* The purchasers are prepared against to-morrow, and it will be for your honour not to keep men lingering in this disease; but put it off your hands.

Major Audley and *Major Wagstaffe* moved to prorogue this till the Parliament meet again; for there can be no determination of it in this time.

Colonel Jones seconded the motion.

Mr. Fowell. I am confident you can do nothing before Michaelmas term; though I should be as glad as any man to vindicate the honour of the House in this; but in regard you have so little time, I move that you would appoint a positive day, the next sessions, for hearing this and Leviston's case.

Captain Lilburne and *Alderman Foot* moved to appoint a certain day next sessions for hearing this business.

And it was resolved that the first Saturday after next meeting in Michaelmas term, may be the day to hear this cause, and that day se'night to hear Leviston's and Crook's case.

Captain Lilburne moved that Mr. Burton and Mr. Rushworth may be added to Durham Committee.

Sir Richard Onslow reported from the Committee appointed

to attend his Highness for his consent to the day of thanksgiving, that his Highness doth consent to all that was ordered by the House.

Mr. Manton being out of town, Mr. Caryl was ordered to preach.

The House adjourned at one o'clock.

Saturday, May 30, 1657.

Colonel Fitz-James reported amendments to Captain John Arthur's Bill; which passed, and were ordered to be engrossed.

Colonel Gorges reported amendments to the Bill for Mrs. Bastwick,* which passed, and were ordered to be engrossed.

Sir William Strickland and I,† moved that the Report for the Bill for York River might be now made.

Mr. Speaker. It is not seasonable to move it against the heir.

He said he would hear it on Monday.

Mr. Bodurda. I move to recal your order for naming of the Committee for the Bill for Buildings. The members were so solicited that it would beget confusion. I therefore move that his Highness may name them, and appoint salaries as he thinks fit.

Major Beake. I second that motion, for I was so solicited that I have forborne to attend the Committee. It would breed confusion. So I move that his Highness may appoint them.

* See *supra*, p. 143.

† This is the first notice I have observed of any part in Parliamentary proceedings, acknowledged by the writer of this *Diary*. This, with some notices which will occur a few pages *infra*, leaves scarcely a doubt that the writer of the MS. was Thomas Burton, Esq., a Justice of the Peace, and (according to *Parl. Hist.* xxi. 77.) one of the representatives for Westmoreland. See vol. i. p. 166, *Note*.

Dr. Clarges. Adhere to your orders. If the King could ever have got that advantage of a Parliament, to name Committees for a business of monies, we had not arrived at that reformation. As the best of kings have been deceived in their grants, so the best of protectors may be deceived in the characters of men. The Committee may debate every man apart as to integrity, &c.

Colonel Shapcott. I move that his Highness may appoint Committees. It will take up much time to debate every man, first here and then at the Committee.

Mr. Fowell. I move that his Highness name them, and the House approve of them, to save debate.

Sir Richard Onslow. In the case of Subsidies and Assessments, the Parliament gives directions about the names; but this differs from Assessments or Subsidies. Again, if you transfer power to another, that still preserves your power of naming, for if the power were not in you, you could not grant it.

Lord Whitlock. This case differs from that of Assessments and Subsidies, though there be monies at the bottom, and the granting of such power is a clear argument that you have the power. It will be best for his Highness to name them.

Sir Christopher Pack. I have been greatly solicited, and it will be hard for the Committee to agree of names. I therefore move, that his Highness may appoint them, for upon the faithfulness and skill of your Committees rests your whole business.

Mr. Highland. You are not incapable to do this work yourselves. His Highness may be misled and misinformed in men. I have been also solicited; but, of all men, I should not speak for them that have solicited me. I would have only sufferers in your service, and not mercenary men.

Mr. Bond. In the Long Parliament, you, and every gentleman, can bear witness what contests, discontents, and high animosities there were about matters of this nature. I have been solicited by forty or fifty persons in this business. I am sorry, for that reason, I was named. It will not only ease

your Committee, but prevent the clamour upon you. I have told many that they were not fit for that place; and therefore I would not vote for them. If I present my friend to be one, and vote for him, I shall be suspected of partiality; if against him I shall lose my friend.

Dr. Clarges and *Mr. Godfrey* moved, that for the preservation of the privilege of Parliament, this House might approve Committees.

Colonel White. It will be no great felicity to put this upon his Highness. You may well trust his Highness with it. He will not be so much solicited as your members are, for the difficulty of access.

Mr. Pedley. I move, that other officers, as well as the committees, may be named by his Highness. The Committee has voted one treasurer and three registrars.

Resolved, that his Highness shall name the committees and other officers.*

Mr. Bampffield. I move, that pursuant to your votes, there may be a manifestation of your clear negative in it; that you do think yourselves tied up; that no members may be commissioners, nor any persons concerned or taxable for those buildings, nor that have other offices or salaries.

Mr. Highland. I second that motion. It is not fit that any of those persons named should be commissioners.

Dr. Clarges. I second that motion, that men may not have seven or eight offices. If so, instead of six months, you will be six years in doing of it.

Mr. Godfrey. It is not honourable for any persons interested, or that have other offices, or are members of this House. I hope none here will look for it.

Mr. Highland seconded this motion, that such qualifications might be annexed to the power.

Mr. Speaker. It is not fit to set my Lord Protector rules, to restrain his appointment.

* "Notwithstanding the former Order, authorizing the Committee to whom the Bill touching Buildings is referred, to bring in names for Commissioners to be inserted in that Bill." *Journals.*

Sir Christopher Pack. It is not proper to restrain his Highness in such cases.

Mr. Fowell moved, that it might only be recommended to his Highness, and no vote put.

Mr. Speaker hoped, that "the self-denying ordinance"* would hinder any member from seeking those places.

Lord Whitlock. I move that you would not pass any vote upon this, so as to limit his Highness, but rather that some honourable person about him would intimate your purposes herein.

Colonel Sankey. I move that it may be only recommended to his Highness, and not to restrain him by any vote. I would have your old Parliament servants looked upon herein.

Dr. Clarges moved, that the Committee might have power to fill up the blanks, as to penalties upon those that conceal their buildings.†

Mr. Trenchard. The nuisance of keeping pigs in a pound, one hundred together, and feeding them with garbage, is very noisome to the neighbours, and is much used in this town. I move that this Committee may take care of that nuisance.

Mr. Speaker and *Sir Christopher Pack.* The parties are indictable for this nuisance, and there needs no additional law for this.

The Bill for Assessments upon Ireland was called for, and the other debates fell.

Major Aston brought in the Bill, and said he came to it as to execution, for that he believed they would never be able to pay it, and he had rather drop off a finger. It was a short Bill.

Mr. Speaker. If the Assessments are as short as the Bill, it will fall short of expectation.

Captain Hatsel moved that the second time of reading of it might be appointed.

Mr. Highland. This Bill is not worth a second reading. It is a nose of wax, and nobody can make any levies upon it.

* An allusion to the famous ordinance, April 5, 1645.

† So in the MS. Yet concealment was scarcely practicable.

Colonel Clarke. The Bill will serve the turn. I desire a second reading, for though there is not a particular appointment of commissioners in every county, yet there are commissioners for the whole dominions. This is no otherwise than as to the commissioners for London, which consists of several divisions, yet those commissioners lay it thorough.

Major Aston. We could not be informed of the ability of this or that county, for all are so flitting that we have no certain abodes, here and there. That county which we left half planted, may now be all wasted, and the county that was half wasted may now be all planted. We could not possibly distribute it.

The Bill was appointed to be read a second time on Monday.

The Bill for the Assessments upon Scotland was read the second time, and committed.

Sir Edward Rhodes. As you have passed an order for England to make up the proportions as formerly they were, so I would have the same divisions and distribution for Scotland.

Lord Cochrane. The distribution of the sums upon every county in Scotland cannot be as the former Act of Parliament appointed.

Lord Tweeddale. I move that for filling up the blanks it may be committed, and, for saving your time, to the Committee for the Scotch affairs, which was resolved accordingly.

Colonel White and *Mr. Fowell* moved, if time would admit it, that it might be in a Grand Committee, but rather to refer it to the Private Committee, otherwise it will hinder the passing of six bills.

Mr. Speaker moved, that a note might be entered, that it shall not be drawn into precedent, to refer a Bill of Assessments to a Private Committee, but in respect of the pressure of affairs.

The Bill for the Customs was called for, read the second time, and committed too.

Mr. Fowell. The custom upon tin is too high ; the profit

that the poor people get is out of the jaws of death and danger.

Sir Christopher Puck. I move that it may be committed to a Grand Committee. I except against the largeness of the powers, to impose fines and imprisonment, or otherwise, upon misdemeanours. That may be hanging, for aught I know. Such clauses were never in any bill.

Mr. Bond. The powers were once debated at the Committee, and, as I take it, thrown out; they are such powers as never were brought into a Parliament. I move it may be referred to a Grand Committee.

It was referred, accordingly, to sit on Monday next at ten o'clock.

Mr. Fowell. The Bill for the Excise wants but two hours: I move that it may be done on Tuesday.

It was resolved accordingly.

Mr. Secretary. We shall be in some danger before we meet again, unless we take care as well for the constant revenue, as you have done for the 400,000*l.* and the 600,000*l.* You have left that 1300,000*l.* very much at loose. I shall move that you would see which way that shall rise; and that a Committee be appointed to inspect the treasuries of England, Scotland, and Ireland, and see, if it fall short, how it shall be supplied.

This was resolved accordingly, &c.

The House being informed that one Michael Beavor, an attorney, a prisoner for arresting Mr. Denn,* was at the door, moved that he might be called, and he was called in accordingly, and he being upon his knees at the bar, said he did not prosecute after he knew that Mr. Denn was a Parliament-man; and the party being withdrawn, Mr. Denn stood up and said the attorney had delivered him the writ, and he was satisfied, and thereupon the House passed a vote for his discharge on paying his fees.

Mr. Downing. There is a very short Bill ingrossed, touching exporting fish. I move that it may be read.

Mr. Speaker was unwilling to hear the motion; yet the

* See *supra*, p. 146.

question being put, that the Bill for poor-john* shall be now read, it was moved that the door might be shut.

Mr. Speaker moved and put the question, that the door should be shut while the Bill for poor-john was read.

It was resolved accordingly, and *Mr. Secretary* offering to go out, the Sergeant stayed him upon this vote. The Bill was read the third time, and passed without any debate. Only

Major Beake moved to know if this did not give a liberty to Flanders and our enemies, to fetch fish in their own bottoms.

Mr. Fowell explained. The design of the Bill is to furnish the people of Spain with fish, which were always our best chapmen for it. It will stink on our hands else. Besides, this Bill is but to continue till December 1659, and the fishing to the Newfoundland is the very nursery of our seamen, which, without this Bill, would infinitely fail and decay.

The House was adjourned after one o'clock.

Monday, June 1, 1657.

Mr. Burton † reported the Amendments to the Bill for the River Ouse, at York, which were twice read ; and, upon the question, agreed.

Mr. Bampffield reported amendments to an explanatory Bill for Bristol, ‡ which were agreed unto, and ordered to be ingrossed.

Sir William Strickland moved that the Bill for tithes might have a first reading.

Captain Baynes. You had not time to despatch the business of monies. I would have no new business admitted ; otherwise you will be anew to begin again at twenty days end.

* See Vol. i. p. 296. When the island of Jersey surrendered to Blake, in 1651, " sixty-thousand weight of poor-john " were among the stores in the castle. *Life of Blake*, p. 44.

† The writer of the MS. See *supra*, p. 159. Note ‡.

‡ " For maintenance of ministers." *Journals*.

Without further debate the Bill was read accordingly, and moved to be read the second time on Friday next.

Lord Whitlock. I except against that clause, as to ministers or their agents entering into men's houses. It is not fit to have such a Bill read again in this House. This was more than was granted in the time of popery.

Another thing concerning distresses. Never any man heard of a distress for tithes. That clause in the Ordinance was excepted against from the beginning. As to the other clause, I would not have such a clause remain upon your books.

Sir William Strickland. This clause may be excepted time enough, at the second reading. I fear that there is a design in it, in bringing that disgrace and reproach upon tithes, to bring a disgrace on the Gospel. Some men will leap, over hedge or ditch, the whole Decalogue; and wholly scruple at that of tithes. They make no scruple at all to detain them. If there be a law for a little severity in that kind, there is need of it. The same levelling principle will lay waste properties and deny rents, upon the same accounts that they do tithes. I desire a second reading.

Captain Hatsel. I move that this bill be laid aside for a while; for that you intend to buy in impropriations, and it will raise them to twenty years' purchase.

Major-General Disbrowe. It is as reasonable and just that tithes should be paid to impropriators as to other persons. I therefore move it may have a second reading.

The Master of the Rolls excepted against that clause in it, for confirming the Ordinance of 1648, touching payment of tithes to ministers in London, and he called the Ordinance that of Henry VIII.

Mr. Speaker said he went upon a mistake. It was the Ordinance of 1648, and not that of Henry VIII., for he had occasion to search for it, and could find no such Ordinance upon the Parliament roll.

The Bill was ordered to be read a second time on Friday.

The Bill for the Assessments in Ireland was read the second time.

Major-General Jephson moved for a Grand Committee.

Mr. Fowell. You have not time. I therefore move that all the members for Ireland be of that Committee, where they may speak as often as they will, and so I would have it in a Private Committee.

Mr. Godfrey. I move that you would not alter the ancient precedents of Parliament, but have it in a Grand Committee.

Mr. Bond. If you would have it pass this Parliament, you must not refer it to a Grand Committee.

Ordered, that it be referred to the Irish Committee, and all that come to have voices,* and to bring it in on Saturday.

Mr. Godfrey. I move, that a clause for redemption of captives may be brought in by the Grand Committee, for saving your time of thrice reading a Bill.

Colonel Clarke. I move against that clause. It is not for the honour of a nation that is so formidable, to make a law to redeem captives.

But it was resolved to bring in such a clause.

Mr. Speaker. The Grand Committee may not only alter any clause, but make any clause.

Mr. Burton moved, that some more names may be added to the Committee for Recusants, *viz.* Mr. Godfrey and Colonel Briscoe.

The Speaker left the chair, for the Grand Committee to sit upon the Bill for Tonnage and Poundage.

Mr. Fowell was called to the chair and sat.

Mr. Bond. It is hard to put him into the chair for the customs. I believe him already in for the Bill of Excise. And thereupon

Mr. Fowell left the chair, and *Mr. Bond* was called to the chair. He pleaded his inability to sit; and, though he sat to-day, he would come here no more, he told us plainly; and that it was an ill requital to call him to the chair for moving what was for the service of the House. Some called on Captain Hatsel, but they could not agree.

* "Provided this be not drawn into precedent for the future, to commit bills for assessments to particular Committees." *Journals.*

Mr. Speaker resumed the chair, and told us it was an ill requital to Mr. Bond for his moving for our service. He put the question for Captain Baynes to take the chair, and he took the chair accordingly.

It was moved that in regard the Bill was read in the House so lately, that the form of reading it again at the Committee might be omitted, and that it might be taken by parts.

The Master of the Rolls and *Mr. Lloyd*. It is not regular to omit the reading of it, and our form is our essence and being, and divers persons are here now that were not at the last reading.

The Bill was read throughout, accordingly, and then twice in parts.

Mr. Godfrey moved that the clause for the redemption of captives may be referred to a Sub-Committee, which was done accordingly.

Lord Whitlock and *Mr. Speaker* moved that a clause, touching a writ of delivery and colouring of aliens' goods may be brought in by the same Committee; for there is a difference of opinion about those writs. Some will have them but discretional.

The Master of the Rolls. I wonder to hear a writ of delivery disputed now. It has been these thirty years. This is the most material part of your Bill, and will obstruct its passing, and cause great debate. The goods were seized and proclaimed. If the party came, they were to be delivered. If the party appeared not, then the goods were forfeited. But that writ of delivery is an undoubted right.

Lord Whitlock. It is a great project now, to bring in prohibited goods, and appoint an agent of their own to go into the Downs and deliver them, and then pray a writ of delivery, and so the customs are lost, and whereas logwood is to be burnt if it come in upon the same account, yet it shall be delivered by that writ. This is a great abuse.

Captain Hatsel stood up, and informed of the great inconvenience by these writs of delivery.

Sir John Barkstead. Half of the customs are lost by this means. It is ordinary for the same persons that deliver the

goods, to seize them, and appraise that which was worth 1000*l.* at 100*l.*

Mr. Lloyd. You are now making a law which is likely to be lasting, and a great many men's livelihoods depend upon it. It relates to an ordinance of the Long Parliament, and to confirm it at the lump is not regular. I move it be referred to a Sub-committee, to examine those Ordinances.

The same was referred accordingly.

The debate upon this continued till one o'clock, and a clause or two being passed, the debate was adjourned till to-morrow afternoon, at which time leave was given to the Committee to sit again.

I was all this afternoon close in the chair for five or six hours upon the Bill for Recusants, which is to be reported to-morrow.

Tuesday, June 2, 1657.

Several reports upon private business being made,

Colonel Jones and *Lord Whitlock* moved that the report for the Bill for Recusants might be made by myself.*

After much striving by *Dr. Clarges* touching a report upon the Bill for Buildings, and by *Major Morgan* for the Irish Bill of Attainder, and by *Mr. Speaker* and others for the Grand Committee of Excise, it was read, and in danger of recommitment upon the oath; but with much ado, we got that wrestled over, and the Bill, with all the Amendments† thereupon, was ordered to be ingrossed. This debate held till past one.

Busy about my report. I had no time to take notes.

* "Mr. Burton reported further Amendments to the Bill for Recusants, which were twice read." *Journals.*

† The Committee had recommended that declarations against transubstantiation, and of a belief "that salvation cannot be merited by works, be omitted" in the oath. On "the question being put," both "passed with the negative." The Committee and the House agreed to exact a declaration, "that the Pope, neither of himself, nor by any authority of the Church or See of Rome," could "depose the Chief Magistrate of these nations, dispose of any of the territories thereto belonging," or absolve his subjects from their allegiance.—See *Journals.*

*Thursday, June 4, 1657.**

A Bill for Lord Moore, of Drogheda, ("to sell part of his lands,") was read the second time, and, after half-an-hour's debate, was committed; the Committee to meet to-morrow afternoon at two o'clock, in the Inner Court of Wards.

Sir Edward Rhodes reported from the Committee, touching Captain Lister and Serjeant Maynard,† and was going on.

Colonel Jones stood up, and said, this is a business (as I am informed) that will hold two days. Your time will not afford it; I move that not only this, but all other reports, except those of public consequence, be excluded.

Major-General Disbrowe. I second this motion. It is our life and being to perfect the Petition and Advice. The soldiery are two months' pay behind. I desire nothing else to information.

Mr. Fowell. This is to destroy divers settlements, for privy uses, made by Serjeant Maynard, in order to a trust in him reposed. This is a great business, and will hold three or four days' debate. So the debate was waved.

Mr. Speaker acquainted the House that he had a letter to communicate from his Highness to the House, which he moved might be read, and it was read accordingly. It was to confirm an order of his Highness and the council, touching some arrears to Colonel Benson's regiment, &c.

Mr. Bond. First take care for the standing army, who are three months in arrear. You have here four Bills for

* About this time appeared the following *Advertisement* :—

"It is desired, that notice be given to all such persons who have any causes depending before the Committee for removal of obstructions (in the sale of the late King's lands, &c.), or have any plaint to exhibit there, that there is intended a meeting of persons therein concerned, on Thursday, the 4th day of June next, at Worcester House, in the Strand (in the great hall there), at two of the clock in the afternoon, to consider of some way for redress of their grievances; the said Committee having for some time suspended their sittings." *Mercurius Politicus*, No. 363.

† See vol. i. p. 366.

monies, which will hold you all your time. I desire not to sit beyond the time appointed; and if you will go on with private business, and leave the public, you may sit by yourself.

Hereupon the debate was put off upon the letter also, and *Colonel Shapcott* reported the additions to the Petition and Advice from the Committee to prepare the same, which was read. He was going to read two Bills more, as a Report from the Committee, in order to explanations of the same.

Mr. Speaker. That gentleman, the reporter, has taken more pains than he needed; for these being Bills reported from a Committee, he needed not read them.

The Petition and Advice additional was read accordingly.

Major-General Jephson. I move that you would take this in paragraphs, as you did the other; and that Mr. Speaker needed not to open it.

Major-General Disbrowe. Go on with the Money Bills, and appoint another day for reading this.

Colonel White. Go on with the business of Assessments, and let this alone till next sessions, that you may care for the distribution of your members.

Sir Christopher Pack. Go on with this first. The people expect to have your Petition and Advice published. Though monies be necessary, yet this is of more consequence.

Mr. Fowell. Read the other Bills, in order to those explanations, and then appoint a day to take both into debate.

The Bill for the better choosing of persons into places of trust was also read accordingly; and both appointed to be read the second time on Monday morning next.

Colonel Jones moved to have them read to-morrow morning; and others moved for Saturday: but resolved *ut supra*.

The Bill for the Three Months' Assessment upon England* was read the third time.

Captain Whitgrave offered a proviso, that no lands should be doubly charged; but in that county only where the lands lie.

* "At the rate of 60,000*l.* by the month; to commence from March 25, 1657." *Journals.*

Colonel Cor. I doubt this proviso will not effect the work you intend. I have known lands pay in both counties, the very same lands. Unless the commissioners have special charge to meet about it, there will be great differences, in which county the lands lie. Your commanders of the army have been much troubled about it.

Captain Baynes moved for additional words to this proviso; viz. "until they shall be otherwise determined by law."

Major-General Kelsey. Lay this aside, for you have not time to determine this business.

Mr. Godfrey. This will rather breed new controversy; for it seems they shall pay where they ever paid. Now, if the lands have ever paid to both counties, they shall ever pay it. It establishes rather than redresses.

Major Morgan. This may obviate some of the evils, if it cannot meet with all inconveniences. Haply, the gentleman that brought it in, knows it will do his work for his county.

Mr. Bampffield offered the addition of a name, viz. Mr. Francis Harvey, who was left out in the very place for which he was returned, viz. the town of Northampton; and he was added accordingly.

Mr. Speaker. I hope you will not make this a precedent, to fall to adding or altering names. You are in till the 24th of June.

The Clerk acquainted the House that Mr. Francis Harvey was in already.

Mr. Speaker. We had not time to do double work. It seems he was named in the county by Mr. Bampffield: though he was in the county he was left out in the town. Upon examination, it was found that Northampton was not a town and county, and Mr. Harvey said he was not; and thereupon the Speaker and Mr. Scobel * desire your directions.

Some cried, put him out.

Mr. Bampffield stood up and craved pardon; for it was put into his hands, and he knew not but Northampton town was distinct from the county.

* Clerk of the House.

After some debate, it was thought fit to let the vote stand, though the gentleman was twice made.

Colonel White offered a proviso, that in case the way of the Exchequer prove tedious and inconvenient, then it may be lawful for his Highness to direct the same way for levying thereof, as was before for the monthly assessments.

The proviso was twice read.

Mr. Fowell moved, that this proviso may be laid aside; for it takes away the whole Bill, and utterly alters the course of levying it.

Major-General Disbrowe. Without this, there will be a whole failure in the business; for no man will undertake to be your collector. He shall haply hang here for seven years, attending for his discharge in the Exchequer, and his posterity liable. Haply, he shall stand charged with 2000*l.* and not get above 40*s.* by it.

Mr. Godfrey. This proviso is a dangerous precedent, to put it in the power of any without doors to direct the managing, levying, and paying it.

Mr. Bampffield seconded that motion.

Colonel Sydenham. By the course of the Exchequer you cannot, in a year's time, get in any fruits of it.

Major-General Whalley and *Major-General Goffe.* There is no danger in putting it in the power of his Highness to levy this, while you prescribe former Acts and Ordinances for his rule.

The question being put that this proviso be part of the Bill,

Mr. Speaker declared for the *Yeas*, *Mr. Godfrey* for the *Noes*.

The House was dividing, and Tellers appointed, and the *Yeas* to go out, but *Mr. Godfrey* stood up, and said he would not insist upon it.

Mr. Waller and *Mr. Maidstone* were appointed tellers for the *Yeas*; and we yielded to them.

Colonel Sydenham offered four additional names for Salisbury, there being but four obscure persons appointed for that city.

The persons added were, the Mayor for the time being, William Stone, James Hely, and Humphrey Ditton, and it was resolved that they be added.

The Bill so amended was passed into a law, Mr. Bampffield and Mr. Godfrey Noes, only.

Major-General Disbrowe. Appoint a Committee to attend his Highness, to know when he will be waited on for his consent to this Bill.

Mr. Bampffield. At the time of passing Bills for monies, always other Bills went along. Therefore I move that all that are passed may go along.

After some debate, it was agreed on that all pass.

Resolved, that a Committee be appointed to attend his Highness accordingly.

Colonel Gorges moved to put off the trial of Colonel Cook, which is to be to-morrow, and your Committee have a Report ready, if you please to hear it, that will give you good grounds to stop it.

Mr. Speaker. I move, that you would give the party costs if you put off the trial, which is usual in all courts.

Sir William Roberts. You have put off one trial, which has caused a great clamour in Westminster Hall, that is Sir Sackville Crow's;* desires you would be wary.

Colonel Carter. The Protector is plaintiff. I would have it considered how you can put it off.

Colonel Shapcott, Mr. Fowell, and Mr. Westlake moved to stop the trial. His Highness is not plaintiff, for there are private persons concerned, as purchasers.

Major-General Whalley. Whoever be plaintiff, justice and right to all do equally concern you. I move, that you would stay proceedings, and defendant pay costs.

Mr. Speaker. I have some cause to know that his Highness draws the charge of the suit. I know not who is plaintiff. I shall put it by way of blank. It seems the Treasurers are plaintiffs.

Mr. Lister. I look upon this place as the great court of the nation. You are to be a rule and example to all other

* See Journals, Jan. 27, 1656-7.

courts. The parties are come out of the country, and the trial may be equal enough. I desire you would rise at this time, and not stop proceedings.

Mr. Lloyd, Alderman Foot, and Sir Christopher Pack. Stop proceedings at law. You are called out on greatly for such things.

Mr. Scobell acquainted the House that he could not sign a blank warrant.

Mr. Speaker. I have known such warrants filled up before signing, and you are going to direct the plaintiff, and all, to move against my Lord Protector.

The question being put to stop proceedings,

Mr. Speaker declared for the *Yeas*, Mr. Cobb for the *Noes*.

The House was divided; the *Noes* went out and were 40, *Yeas* 29. So it passed in the negative.

Mr. Speaker (according to *Major Wagstaffe's* motion) put the House in mind that the preacher ought to have the thanks of the House for the good sermon he made the Sunday, and it was ordered accordingly, and Major-General Goffe and Colonel Carter to give him thanks.

In the afternoon sat the Grand Committee upon the Bill for Excise, (Mr. Fowell in the chair) and passed all the Bill, save a clause about the powers, which was referred to a Sub-Committee, and the debate went strongly to put it in the power of Justices of the Peace to determine all differences, fines, penalties, and forfeitures between the parties paying, and the Sub-Committee, and farmers of the Excise in the countries.

Friday, June 5, 1657.

A great debate about Lord Broghill's Bill.*

Mr. Highland, Major-General Kelsey, and Colonel Mat-

* "For the settling of the Castle of Blarney, and lands to the value of 1,000*l. per annum*, which were part of the possessions of the Lord Muskerry, upon the Lord Broghill, his heirs and assigns, in satisfaction of his arrears, to the 28th of June, 1650." *Journals.*

theus moved against it. They would have our debts paid rather than give those large gratuities. The Long Parliament gave large gifts indeed. It was great justice and honour to relieve the oppressed.

*Colonel Jones, Lord Whitlock, Sir Richard Onslow, Mr. Waller.**

Colonel Castle. I cannot but observe the great zeal of this House in private business, and so careless of the public. I therefore move that no private debts may be paid till the public are satisfied.

Colonel Sydenham. If you went to take measure by the noble lord's merit, there would be no negative upon it. It is but losing your time to reckon up that ; but in this case it is of a dangerous consequence. From the private report of a member, to take it up that this which was set out, falls short of what was given, and to give 400*l.* more, will lay your reputation very low. But if you will lay "a signal testimony"† upon the head of this person, and do it by a particular act, I shall not be against it, but not to take it as a debt upon you.

Mr. Bond moved to have the 400*l.* added to it.

Mr. Moody and *Colonel White* were against taking it up upon trust, and would have it go as a mark of favour to him.

Mr. Secretary. It is clearly to be admitted that this noble person well deserves your favour, much more your justice. It is urged it will be an ill precedent. You were pleased to refer a petition of the same nature for the officers in Ireland, where the lands fall short, and order that they should have satisfaction. The same reason remaining, the same law remains. If there was a mistake in setting forth those lands, no reason he should suffer.

The Master of the Rolls. This land was given by way of composition and agreement with this noble lord and the Long Parliament. It is not a thing of recompense or gratuity, but a duty to him, and we thought we made a good bargain. He stuck to us when we were in great distress ; all our party had

* The MS. has not recorded their opinions.

† This was become a description of meritorious public services.

no one but he and a colonel in my eye, viz. Jephson. He well deserves it both in point of right and justice.

Major Morgan. I would not have the state over-reached, neither would I have you fall short of what is right, and of the justice you ought to do to this noble person.

Lord Lambert. I am not against the thing, but against the manner of it. I would rather have it referred to a Committee to bring in a clause or proviso, on Tuesday next, that you may be well informed.

Major-General Jephson. I find that when you are upon acts of private justice, you are always minded that you neglect the public. I wish those gentlemen's memories would serve them to tell it you some other time. I hear nobody but acknowledges this honourable person's merit; only the difference is, some would pay him with good words, others would give him just satisfaction. I know this noble lord's condition, in this thing, as well as any man. This land was once under as good improvement as ever it was since the world began, but it was overrun, and the surveyors had no friendship for him. There was hardship in setting out the lands.

Mr. Disbrowe. So the thing be done, put what mark you please upon it; but he very well deserves it at your hands. He maintained two regiments at his own charge, and suffered much for you. I believe it will appear that the surveyors did it in knavery, because Lord Broghill would not give the surveyors a sum of money; and the high sheriff will certify that the lands are over-valued.

Major-General Whalley. This person is one that all the House has a great respect for, and if a negative should be put upon it, it would not well please you. I therefore move that it be referred to be opened, upon the whole debate.

Lord Lambert. The House is not seised of a proviso till the gentleman that brought it in shall read it. I move that he may read it, and then debate it.

Sir Charles Wolseley. I brought in the proviso, and it will not be Parliamentary for me now to read it, after it has been upon your table and admitted in debate. Yet if you please to command me, I shall read.

Colonel Jones. It is not a standing order that a proviso shall always be read by the person that brought it in; so that he did but open it. I move that the question may be put to read it, and I hope that there will not be many negatives upon it.

The question was put accordingly, and passed in the affirmative; but Lord Lambert, Fleetwood, Sydenham, and Disbrowe, were withdrawn.

The proviso was read a second time. It was to add "two thousand acres of forfeited profitable land, Irish plantation measure," to the lands already set out.

Major Aston. I am sorry that I must move against this. I, therefore, would have it committed, for that those lands are already settled by Act of Parliament upon some poor widows and orphans; unless there be some other provision made for them.

Major-General Jephson. I move that it be committed, to examine this, and it will appear that those widows are otherwise provided for. Otherwise, I am confident, that lord would never have desired it.

Colonel Matthews. I move against the commitment of this proviso; for, by the same rule, all that have served you in their capacities, as every man here has done, may challenge a full satisfaction. Why should we not do this to every body. It is the desire of my soul to be guided by a spirit of righteousness. I speak it in that spirit. Shall I, after I have purchased land, go and say it falls short? Shall the party that I bought it from, return me what it falls short? The case is the same; the precedent is dangerous.

Mr. Trevor. There will be no danger of this precedent. I believe it may rather appear that lands elsewhere were undervalued, rather than overvalued, as that which is returned at 500*l.* may be worth 2,000*l.* But in this case it is clear that it falls short 300*l.* I would have it committed for the reason that the other gentlemen offered, lest one act fight with another. Scarce one precedent will be found that the surveys are rather under than over.

Major-General Haines. I move that this clause may be

committed; but not to have that clause left out which relates to further satisfaction; and let it stand as for his faithful service, &c. Consider what the particulars are that you do give.

Mr. Highland. I would have it well examined what you do in this case. Hasty proceedings are not for your honour. You will have a great many more that will desire your justice, as well as he. You must not respect persons. I perceive this land is otherwise disposed of. It is much that 1000*l.* in arrear should be in so short a time to one person. I move that the clause may not be committed.

The question being put, that this proviso be committed,

Mr. Speaker declared for the *Yeas*. *Colonel Matthews* for the *Noes*. The House was divided. The *Yeas* went out.

Yeas 85. *Colonel Jones* and *Mr. Thelwall*, Tellers.

Noes 41. *Colonel Welden* and *Colonel Matthews*, Tellers.

So it passed in the affirmative. The clause was committed accordingly; and the debate upon the Bill was adjourned until Wednesday morning.

Mr. Godfrey moved, that there might be a stop made to private satisfaction; and a day appointed, when the Report for the Public Faith* might be made, and that effectually.

Major-General Jephson and *The Master of the Rolls* seconded that motion, and that it might be on Wednesday next.

Dr. Clarges and *Colonel Chadwick* moved to second that motion, and that it cried loud to the House for justice.

They were appointing this afternoon for the Committee to meet, but Captain Baynes stood up, and acquainted the House that the Grand Committee for the Customs desired to sit this afternoon. All that come to "the Committee touching the Public Faith, to have voices."†

Per motion of Captain Baynes and *Colonel Jones*,

Resolved, that the Grand Committee do sit this afternoon upon the Bill for Customs.‡

Per motion of Mr. Lloyd,

Resolved, that the Bill for the Adventures for Ireland be read to-morrow morning.§

* See Vol i. p. 93.

† *Journals*.

‡ *Ibid.*

§ *Ibid.*

Major-General Whalley. According to your order, your Committee did attend his Highness, to acquaint him that you had a Bill of Assessments, and several other Bills, and desired to know when his Highness would pass them. He appointed this day, at eleven o'clock.

This morning he sent for the Committee, and said he had received a catalogue of the Bills that are to pass. He had read one of the Bills, and if he should rise at four o'clock in the morning, he could not read them in a whole day. He, therefore, desired that the Committee would meet him in the Painted Chamber on Wednesday next, at eleven.

Sir Christopher Pack. The Vintners desire longer time for setting their prices of wine. They are now at your doors, and desire to be heard upon their Petition.

Dr. Clarges reported from the Committee, to whom the Bill against New Buildings was referred, the Report upon the Earl of Bedford's Petition, and the Earl of Clare's; and the Petition of the City of Westminster.

The Report upon the Earl of Bedford's Petition was first read.*

The question being put, that the buildings of the Earl of Bedford shall be exempt out of the penalties of this Bill,†

* This Report appears, at length, in the printed *Journals* of this date. The Earl of Bedford was brought into question on account of his estates of "*Covent-Garden and Long-Acre*," of which "Francis Earl of Bedford was seised in fee" according to Letters Patent, 6 Car. (1631), and "upon part whereof sundry messuages and buildings had been thentofore erected." There had been, of course, before 1657, further additional letters patent, in which the King "pardons all offences committed or suffered in or by reason of the erecting of those buildings, or in or by reason of the continuance thereof."

Under "the Bill against New Buildings," the Earl of Bedford appears, however, to have become liable to a heavy fine; the extension of buildings being regarded as a nuisance. This is the subject of a discussion, which could scarcely have been made interesting, and which I am obliged to omit, as unintelligible, on account of legal references left very imperfect, and blanks which were never filled up.

† "Upon consideration of the Act of 16 *Caroli*, for the settling of certain manors, lands, &c. and of the Ordinance dated the 7th of January, 1645, for making the precinct of *Covent-Garden* parochial." *Journals*.

Mr. Speaker declared for the *Noes*.

Yeas 44. *Mr. Trevor* and *Sir Richard Onslow*, Tellers.

Noes 52. *Sir J. Copplestone* and *Mr. Dunch*, Tellers.

So it passed in the negative.

Colonel Sydenham. I move for a proviso, to abate Lord Bedford something, as a mark of your favour in regard of his building a church; having paid into the Exchequer 2000*l.*, endowed the church with 100*l.*, and as much to the poor; and he allows a house for the minister, worth 60*l. per annum*.

Mr. Trevor moved for 5000*l.* abatement.

Mr. Secretary moved, that this was too little, and that there might be 7000*l.* abated to him.

Sir John Hobart. I second that motion. These buildings have been chargeable to him, only for ornament sake, and least profit to him. Such buildings and such a church is the honour of the nation.

Mr. Moody. I move that he may have a third part abated; but first see what will come in to you by it.

Mr. Fowell moved, that the 5000*l.* laid out about the church might be abated; but for the 2000*l.* paid into the Exchequer, it was to purchase a void patent.

Mr. Trenchard seconded the motion. It was always the method of Parliaments to mix mercy with justice.

Captain Baynes. I see no more equity for my Lord of Bedford than for others to be abated. If he built the church it did advance his houses' rents.

Major-General Kelsey. Consider what you will get by it. It may be this 5000*l.* may come to a third part; it may be to a moiety. It may be to all. I would rather have it put upon a proportion of the fine.

Sir Christopher Pack seconded that motion.

Mr. West. I differ from that gentleman. The sum, we are well satisfied, will amount to more; and the more certain you are in such cases, the better. I move that the sum may be 7000*l.*; and it was resolved accordingly.

Mr. Fowell. I move that you would express the reasons, as to the building of the church, and endowing of it, giving to

the poor; otherwise you will draw a greater inconvenience upon you. Others will expect the same favour.

That question was so penned and put accordingly.*

Lord Lambert. I offer a Petition from one Mr. Hatton,† of Holborn, to build his house into tenements. He will submit to your fines, as you deal with others in the like nature.

Sir William Strickland seconded that motion.

Colonel Shapcott against that motion. The end was to suppress these nuisances; I therefore move to lay the Petition aside. But the same was read and committed.‡

Mr. Godfrey was *contra*.

The House rose at two o'clock.

Saturday, June 6, 1657.

A great debate whether Captain Lister's Report § should be made by Sir Edward Rhodes, now.

Mr. Bampffield, Mr. Fowell, and Mr. Godfrey inferred that this Report will take two days time; and it was moved that a Petition from Colonel Welden || might be read.

It was to be relieved against a debt of 4000*l.* which he stands engaged for on the behalf of the public; and if the House be dissolved to-morrow, he shall be delivered up as a sacrifice for this sum, unless relieved before the House rise.

* "Resolved, that in regard of the great charge that Francis, late Earl of Bedford, hath been at in building a church in *Covent Garden*, and endowment of the same, and other public charges, it be referred to the Committee, touching buildings, to bring in a proviso, that out of the fines which shall be payable by the Earl of Bedford, John Russell, and Edward Russell, Esquires, his brothers, in respect of the buildings in *Covent Garden*, by force of this Bill there be the sum of 7000*l.* abated unto the said Earl, and the said John Russell, and Edward Russell." *Journals.*

† Christopher Hatton, according to the *Journals*. He was a descendant of Sir Christopher Hatton, whose mansion and grounds occupied the site of *Hatton-Garden*.

‡ "To the Committee touching Buildings." *Journals.*

§ See vol. i. p. 366.

|| M. P. for Kent.

Colonel White and *Captain Baynes* moved, that Sir Edward Rhodes's Report be heard.

The question was put, and the *Speaker* declared for the *Yeas*. *Mr. Fowell* for the *Noes*.

The House was going to be divided, but *Mr. Fowell* stood up, and said he was satisfied, and the Report was heard accordingly.

Mr. Rouse. This business has many years laid upon the consideration of many men, and I believe upon those that are principally concerned in the trust. I would have you so dispose of it as that the trust may not lie in *nubibus*, but that the settlements may be made to the charitable uses, according to the intent of the donor. Old Hele would weep when he heard that anthem—

“ In getting goods, and cannot tell—”

Mr. Powell. The Treasury could not settle it, for they have been and are in continual suite and vexation about this; and it is well known that the profits go every penny to the schools, and other pious uses, at Plymouth and Exeter.

Serjeant Maynard told the Committee, that the whole lands would but settle the charitable uses. There were casualties, fines to be raised; and if the gentleman could have a portion of 2 or 3000*l*. I believe the Serjeant would be very willing to it. But if you go to ravel into the whole settlements, and destroy the charitable uses, I shall use the Serjeant's own words; you may do what you will, he must submit: but if ever there be another Parliament, or if he die before, he will leave it to posterity to be redressed, on the behalf of the pious uses. So I move that you will do nothing in it, till Serjeant Maynard is heard.

The Master of the Rolls. It is very true; I have observed old Hele weep when that anthem was sung—

“ In getting goods, and cannot tell
Who shall the same enjoy.”*

I know Serjeant Maynard has been in great trouble in this. I think if a Bill were brought in, and all parties heard, it

* Ps. 39. in the version of Sternhold and Hopkins.

would settle this business, which cannot be settled otherwise by the courts of justice. I conceive that to relieve the heir may be as much charity as any of the other uses. *Equitas sequitur legem.*

The case was adjudged upon a full hearing, where —* gives his estate to such charitable uses as*—— shall think fit; and the heir being poor, it was Resolved then, that he should have the estate, he being also an object of charity.

Colonels Grosvenor and Cooper moved, that a Bill might be brought in to continue the charitable uses already settled, and let the heir have the rest, who is near akin to the estate; she † being heir at common-law, not only in point of charity, but in point of justice.

Lord Whitlock. I have always observed that rule when I served in another place, ‡ to pursue the intent of the donor where there are particular directions, and not to alter the will of the dead; but when it is doubtful or uncertain, I have been guilty of relieving an heir in such cases.

I would not have any thing of stain lie upon Serjeant Maynard.§ I have been brought up with him from a child, and I know he intends all things justly in this business, and will surely submit to what determination you shall make herein, according to justice, charity, and equity.

To this purpose I would have a Bill prepared by a Com-

* Blank in MS.

† The wife of Captain Lister, of whom "old Hele" was "the great-grandfather."

‡ The Chancery, as a Lord Commissioner of the Great Seal.

§ This eminent lawyer has fixed an indelible stain on his own character by appearing, with professional versatility, too often exhibited at the English bar, as one of "the King's counsel," to assist in the legal murder of Sir Henry Vane; a favourite project of Charles II., who deemed him "too dangerous a man to let live." See the King's Letter to Lord Clarendon, 7 June, 1662, concerning Sir Henry Vane, with a royal hint "to put him out of the way." *Lansdowne MSS.*

Mr. Serjeant Heywood, in his "Vindication of Mr. Fox's History," has published this letter, with remarks becoming the Vindicator's well known attachment to liberty and justice. See *Monthly Repository* (1811), vi. 391, 602.

mittee, with power to send for persons, papers, witnesses, as they shall see cause.

Mr. Bampfild moved, that *Mr. Fowell* might be heard again to matter of fact, and he was heard accordingly.

Mr. Fowell informed the House how that there was provision made in this case. There were 200*l. per annum* settled upon the heir at law, and a 1000 marks a-piece upon the daughters; which they do enjoy according to that deed of settlement. The rest of the estate was designed to pious uses, and *Serjeant Maynard* never meddled with it.

Colonel Carter. It was proved to the Committee that old Hele did not by this deed of settlement intend to disinherit all the heirs. He was displeased with the then present heir, but this gentlewoman was not then born. He was pressed to it by the importunity of a bad wife; and being asked what would become of his heir, he said he had left it in such honest gentlemen's hands as would take care of his heir. I hope you will consider this, though it be omitted in the Report.

I understand nothing of the law, but I have been told by good lawyers, that where a man settles his estate to pious uses, in general terms, and no particular directions therein, the estate descends to the heir. Besides, the will says that these settlements shall be made in some convenient time, and it is twenty years since. Here have been all parties heard in the case already.

There is a short Bill in a gentleman's hand to settle the remainder of the estate upon the petition. If you please to read it now, it may save your time.

Colonel Jones. I am not satisfied in the matter of fact. The matter of fact is not fully stated. I move to have it re-committed, and then a Bill to be brought in, if you think fit. Uncertainty remaining in the matter of fact, you are not ripe for a Bill.

Major-General Disbrowe. There is estate sufficient to answer all deeds and all parties. I would leave this business of the lady, and the whole business, therefore, if you please, to counsel, so that all claims may be understood; and then a Bill to be brought in to settle all things.

Mr. Speaker moved, to put the question to agree with the Committee, and then to bring in a Bill.

Mr. Bond. If you put the question to agree with the Committee, you judge the case beforehand. I would have it re-committed, and a Bill brought in.

Sir William Strickland moved, that it might be re-committed with power to bring in a Bill, and particular directions to settle it upon the pious uses and the heir.

Major-General Kelsey. By agreeing with the Committee you do not at all dissettle the business. The heir desires only the remainder, after what is or shall be designed to charitable uses. It will be more to the advantage of the charitable uses to have a Bill brought in to this purpose.

Colonel Holland. We went as far in this business in the Long Parliament, and I remember it stuck here. They told us that all the estate was disposed of already to charitable uses. If there hath been any disposition since, the Parliament was not ingenuously dealt with; and if so, there is no danger in your giving the remainder to the heir. If all charitable uses be served, who shall have the remainder but the heir?

Sir William Strickland. There are all the reasons that may be, that all that remains above the settlement should come to the heir.

(The law was so, but he was mistaken; for the remainder is settled in the Treasury, and cannot be taken out.)

Mr. Godfrey. I move to re-commit it upon the uncertainty of the words of the Report "intended to be disposed of," for you could ground no judgment upon them.

Colonel Shapcott. I second that motion. It is uncertain, and you can do nothing in it but re-commit it. It has been told you that the courts of law may grant relief in such cases, and cases to that purpose have been cited; nay, in this very case, relief has been given in Chancery. There is 1200*l.* portion given to this lady, which is a good portion in the west. If there be a settlement upon the heir-at-law already, you will not let him also come in upon a charitable use.

Mr. Bodurda. It is strange to me this should hold you

so long. I looked upon this Report as an amicable conclusion between the parties, and consented to, fully, by the Serjeant and both parties. There were, indeed, some gentlemen that serve for the west, that were then, and are still unsatisfied that any thing should be taken from these uses and settlements in their country.*

My motion is to agree with the Committee in this Report, and that a Bill be brought in.

Mr. Bampffield. If it were either just or honest for you to agree with the Committee in this Report, I should not be against it. The matter of fact is mistaken.

The gentlewoman has a competent portion, 1000 marks out of this estate, and the heirs were fully provided for.

That very Andrew, the father of this gentlewoman, has released all his right to the trustees, in consideration of the third part of this estate, which was settled upon him by the decree.

Again you are misinformed. You have not Serjeant Maynard's consent, nor will he ever willingly agree to alter these uses. This is such an abominable thing, that I hope this House will never agree with the Committee. I would have it re-committed, and to this end that it may die, and never come here.

Major-General Jephson. I except against Mr. Bampffield's saying this business is not honest. It is not Parliamentary. Men may speak against the justice of a business, but after so many gentlemen, worthy persons, have passed their opinion of it, to say that it is not honest, is such language as I have not heard. He was not so civil to you as you were to him, to let him go on after those expressions.

(For, indeed, Mr. Bampffield had found fault with the Speaker's talking to gentlemen,† and was angry.)

Major-General Whalley. Whenever you put the question to agree with the Committee, if it were my father I must give my negative. The poor have but few friends, and I cannot but discharge my conscience. If God have cast it

* The county of Devon.

† See *supra*, p. 149.

upon the poor, for you to make another will, is to alter those intentions, and to destroy the charitable uses.

Mr. Lechmere. I have heard nothing of this business till this debate, and I have now heard so much of it that I cannot but also exonerate my conscience as the honourable person did that spoke last. I hear it not doubted but that the donor had a natural equity right to dispose of it to these uses. I remember a case, this Parliament; it was Gresham's case.* Will you have yourselves condemned? As to the matter and rule, it is the same to you as in the Courts of Justice; though you may dispose of men's estates as you please, for that criticism over the way,† I could never understand it. What is not just is not honest.

I find not that this gentleman was so careless of his heir: he made a provision for his heir. It is an usual way of settlement, to let men's estates go to collateral heirs, and not to daughters. I hope you will not shake such settlement and make another will. It is true you have power of men's estates, but I hope you will not agree with the Committee in this.

Colonel Sankey. I must differ from those persons that spoke last. It was clearly opened, in Dr. Fryer's case, how that the rest descends to the heir. I would have you put the question to agree with the Committee.

Sir Lislebone Long. I would have it well understood, whether Serjeant Maynard did consent to this which is reported. I would have the House informed in this. Here is a difference among the members of the Committee, not in matter of opinion, but in matter of fact. I like not your meddling with your legislation in private men's estates. There have been settlements, and for you to go and to supply what a court of justice cannot do! That case of Dr. Fryer was not in Parliament, but in a court of justice.

The Long Parliament were very cautious in meddling in matters of this nature. Even in this very business they

* April 2, 1657. See *Journals*.

† By Major-General Jephson, *supra*, p. 187.

would not meddle. For your honour and justice, let it run in the channel that the donor intended; otherwise, you shake a fundamental point of the law, and hinder a man from disposing of his estate as he pleases. I would have it recommitted, to the end the parties, on all sides, may be heard, and a Bill be brought in to that purpose, as the Committee shall find matter of fact.

The question being put to agree with the Committee,

Mr. Speaker declared for the *Yeas*.

Mr. Bampfild for the *Noes*. The *Yeas* went out.

Yeas 72. Colonel White and Mr. Bodurda, Tellers.

Noes 48. Mr. Lawrence and Mr. Trevor, Tellers.

So it passed in the affirmative.*

It seems Mr. Lawrence said he would not be told, for he did not understand the business; but he was a teller, and so made his words good.

* "So it was resolved, that this House doth agree with the Committee in this, that the remainder of the estate of Elize Hele, not disposed, nor intended to be disposed of, to those charitable uses mentioned in the particular given in to the Committee, by Mr. Serjeant Maynard, unto the report annexed, shall be settled upon the petitioner, being heir at law to the said Elize Hele, and that it be referred back to the same Committee, to bring in a Bill for that purpose, and for the confirmation of the said charitable uses." *Journals*.

These "charitable uses" were :—

1. "A workhouse to be settled for the prisoners of the gael of Devon, and provision for a minister to instruct the prisoners, and pray, &c. and for materials.

2. "The Rectory of Warrington and St. Giles, to be settled on the ministers of those places.

3. "Thirty-two pounds *per annum*, to Exon College, for a Divinity Lecture, by way of catechism to young scholars; and for teaching the ancient languages, wherein the Scriptures were written.

4. "The annual value of all the rest of the lands undisposed, to the Hospitals of Exon and Plymouth, and the mills called Bovey Mills.

5. "A school maintained at Moreton, and ten pounds *per annum*, allotted thereto.

6. "A school at Plimpton, a school-house, with fitting conveniences, and a good maintenance for a school-master there.

7. "A reversion of one tenement, to settle on Totness for a school."

Besides "divers other charitable uses, as provisions for the poor, books for poor ministers, fuel for the poor of Tavistock." *Ibid*.

Lord Lambert moved, that Colonel Welden's petition* might be read, and it was read accordingly.

The Master of the Rolls. This petition troubles me to hear it. I wonder that sum should be now unpaid. He laid it out for a very acceptable service.† I thought we had paid it seven years since. I would have it paid out of the treasury, which is readiest, and not stay any longer to raise it out of the excise.

Lord Strickland, Sir William Strickland, and Sir Richard Onslow. To say he should have it out of the excise, would do him no good. Rather let a Committee attend his Highness, to request him to grant a seal, to pay it, presently, out of the exchequer.

Major-General Kelsey. The most likely place for him to have this money is the prize office, which is most open.

Mr. Fowell. This sum was 6000*l.* I move that he may be speedily satisfied, either out of the prize office, or else where is readiest.

Lord Lambert moved, that he might be paid out of the prize office, from the first money that comes.

Colonel Jones. I will say nothing as to the service of the person. That would but spend time. The readiest way for him to be satisfied, is to appoint a Committee to attend his Highness for his seal for so much money out of the first money that rises out of the prize office.

Mr. Speaker. Unless you specially design out of what this sum shall rise, as the prize office or the like, but put it generally to receive it out of the exchequer, you may stay a good many months, before he be satisfied.

It was moved that to the 4000*l.* the interest might be charged.

* See *supra*, p. 182.

† From *Whitlock*, who frequently names Colonel Welden, it appears that he was appointed, in 1648, Governor of Plymouth. Probably, in that capacity he incurred some pecuniary engagements. *Whitlock* mentions the same year, "upon information of the wants of Plymouth Garrison, orders for raising 4000*l.* for them, and Colonel Welden to go thither." *Memoriale*, (1732), pp. 313, 357.

Colonel Welden stood up and said, if the parties would be satisfied without interest, he was content.

It was resolved, that the sum of 4000*l.* be charged accordingly.*

Mr. Godfrey moved, that Lord Lambert and Colonel Jones might acquaint his Highness with this order; and it was resolved.

Dr. Clarges moved, that the debate adjourned yesterday about the buildings might be taken up according to the orders of the House.†

Mr. Cary pressed for the report upon the Bill for the Postage.‡

Colonel Jones seconded it.

Colonel Sankey moved, that the Bill for Prisoners and Creditors § might be read.

Colonel White seconded it.

Mr. Highland. I live|| amongst prisoners. In three prisons near me there are above one thousand prisoners: so I move that the Bill may be read.¶

It was moved that no private business at all might be done for a week, and resolved; and that the House shall sit, forenoon and afternoon, upon public business.

The report upon the Bill for Postage was made, and the Bill ordered to be ingrossed.

I went to Loughton in the afternoon, so minded not Committees.

Monday, June 8, 1657.

The Speaker took the chair (the House having waited half an hour for a minister, and none came) and was going to proceed without prayers, but

* "In satisfaction of the remainder of 6000*l.* charged upon the Excise to be paid unto him." *Journals.*

† "Resolved, that it be adjourned till Monday morning." *Journals.*

‡ See *supra*, p. 156, note.

§ See vol. i. p. 5, note.

|| In Southwark, for which he was M.P.

¶ "Ordered to be read the second time on Wednesday next." *Journals.*

Mr. Bampffield stood up. This is the first precedent that ever the House went to business without prayer.* You are now going upon public business. So I hope you are not in such haste but you will take a blessing along with you.

Hereupon the House staid awhile.

Lord Whitlock. I move to excuse the minister that should have attended, but is gone to Chelsea. He was ignorant of your orders, but is a very honest and faithful man as any of his profession.

Major-General Whalley told *Mr. Downing* that he was a minister, and he would have him to perform the work.

Mr. Downing acknowledged he was once a minister.†

Dr. Clarges. There is a very honest minister, a Scotchman, at the door.

He was sent out for him, but came in and acquainted the House that he was gone; and they called upon *Dr. Clarges* to do the work, but he withdrew.

Some said, that the Speaker used to exercise, in the absence of a minister. Others said, the clerk; but, nobody coming, the House proceeded without any prayer.

A long Bill for naturalizing was read the third time, notwithstanding the late express order to exclude all private business; but the House grumbled.‡

* "The Litany is read the first thing after the Speaker is set in the chair. So agreed upon the motion of *Mr. Speaker*, 13th Elizabeth, 1571." *Lex Parliamentaria*, (1690) p. 148.

"1642, 19th April. Ordered, that whosoever shall not be here at prayers, every morning, at eight o'clock, shall pay 1s. to the poor." See "Orders of the House of Commons," (1756.) p. 28.

† *Wood* describes "George Downing," as "a sinner with all times and changes, well-skilled in the common cant, and a preacher, sometimes to boot." *Athen. Oxon.* (1692.) ii. 27.

Governor Hutchinson relates, that when Sir George Downing was ambassador in Holland, in 1671, "they printed the sermons he preached in Oliver's time, and drew three pictures of him. 1. Preaching in a tub, over it was, 'this I was.' 2. A treacherous courtier, over it, 'this I am.' 3. Hanging on a gibbet, and over it, 'this I shall be.'" See "The History of the Colony of Massachusetts's Bay." (1765) i. 3. note.

‡ Because the order was violated by the Speaker, for the sake of his fees. See Vol. i. p. 376. note *

Sir Christopher Pack produced a proviso for paying strangers' customs.

Then prayers were called for, which a minister performed accordingly.

Sir Christopher Pack again tendered the proviso, and said, that Mr. Noel was appointed to tender it.

Per myself, Colonel Carter, and Colonel Shapcott,

The proviso excepted against as irregularly come in ; there being no Committee when the proviso passed, and the House sitting too.

Mr. Speaker and Mr. Pedley. Any member may offer it. The same was tendered accordingly.

Mr. Godfrey, Major-General Whalley, Captain Baynes and Colonel Shapcott, were against it. They said, none are naturalized but such as come hither for their religion, and for being sufferers for you, and we have more need of friends now than ever, and there will not be any loss of customs by it. The merchants can colour goods as well as strangers, and it is to that end, that they may wholly colour them. It is not just nor honourable to give them a privilege, and take it away again.

Sir Christopher Pack and Alderman Foot. It will lose us 40,000*l. per annum*, in customs.

After some further debate, the House was divided. The Yeas went forth.

Yeas 43. Alderman Foot and Mr. Lloyd, Tellers.

Noes 63. Major-General Disbrowe, and Major-General Whalley, Tellers.

Sir Christopher Pack was appointed to be a Teller, but he stood up and said, nobody knew whether he should go out or no, and so Mr. Lloyd was appointed in his stead.

It passed in the negative.

Sir Christopher Pack offered another proviso, to preserve the rights and duties payable to the City. Though you give away your own customs, you will not give away the City's. They have deserved not so ill from you.

Colonel Shapcott moved against this proviso.

Mr. Noel. I was against the other proviso, because, in my judgment, it was not for your service. All places in the

world favour strangers. You pay less in the Indies, Portugal, and else, where you trade, three per cent. less than the natives. I know it is no loss to your customs, if all were freely admitted to trade.

Mr. Lloyd. I will find farmers to give 40,000*l.* for this strangers' customs. I rise up to disabuse you in it, for I know you are misinformed.

Mr. Recorder. It is the first time that ever I heard a question put upon a proviso, till it was first read. The House is not possessed of it. Of sixty provisos tendered to the Act of Oblivion,* all were read the first time.

Mr. Speaker, the clerk, and others said, that the practice was often the contrary.

This proviso was put to the question, and passed also in the negative, before any body stood up to except.

Colonel Holland moved that one Harmon Scott, a surgeon, might be added, to be naturalized in this Bill. The question being put,

Mr. Speaker declared for the *Yeas*, and it was excepted for the *Noes*; but the *Yeas*, rather than go out, yielded it.

Another proviso was offered, not to exempt any person from paying strangers' or aliens' duties until the rising of the next Parliament, and no longer.†

Lord Lambert moving for this proviso, they carried it.

Yeas 68, went forth. Sir Thomas Honywood and Mr. Cobb, Tellers.

Noes 50. Sir John Barkstead and Major Morgan, Tellers. The proviso was read again.

Mr. Speaker declared it not to be sense, because it related to a Parliament rising, that was not yet set.

Colonel Shapcott. This is all one as if you had made it for life; for, in all probability, it may be seven years before the next Parliament rise.

Sir William Strickland. I move that you lay aside this proviso, till the next Parliament; for, till then, it is not possible to make it sense.

Mr. Godfrey. It is neither sense nor reason. It will ap-

* Passed February 24, 1651-2.

† *Journals.*

pear ill upon your journals, that you vote and unvote. Just now you said, they should pay no custom, and now you lay it upon them for their lives; for seven years is no less.

Colonel Stewart. This contention is *de lanâ caprinâ*.^{*} You have declared the proviso is not sense; and how can they be satisfied, that either spoke for, or against it, in the debate?

Lord Lambert and Colonel Sydenham. Though it was a little missed sense, that might be mended. The justice and equity remain. Will you lay, and continue burthens upon your friends, and wholly excuse strangers. Truly this will not be for your honour nor service. You discourage your own merchants.

Major-General Disbrowe. You encourage trade, though you discourage, haply, some other persons. I would wholly lay aside the Bill, rather than take away their privileges. It is useless to your customs.

Mr. Bond. I wonder any man dare bring in such a non-sensical proviso. I know you are misinformed in that loss of your customs. There were never above 2000*l.* made of strangers' customs. There is not passed three or four men, in all this Bill, that are merchants: if those have crept in, will you reject all your friends for it?

Major Aston. The proviso stands as much in need of being naturalized, as any person in the Bill. It is as much alien as any part of the Bill. I understand not the language of it, so would have it rejected.

Dr. Clarges. I am against the proviso, both for the non-sense and unreasonableness of it. Your customs and excise will increase by the Bill. They will now trade openly, and not secretly, as they have done. It is an Act of your grace and favour, and let them have the real effects of it.

The question was put for the second reading of the proviso. It passed in the negative.

And the Bill being thus read, passed into a law.

Mr. Bampffield. It is now half an hour past eleven, and all taken up with private business. I desire no more may be admitted of this kind.

^{*} An allusion to Horace, *Lib. i. Ep. 18.* 115.

Mr. Speaker stood up and said, he thought it would not have held so long. He craved excuse and said, till Tuesday se'nnight you shall not have one private Bill read.

He acquainted the House that he had a letter touching the Irish officers,* from his Highness.

It was moved to put it off till Wednesday next, and it was so resolved.

Lord Lambert moved, and it was so resolved, that the same day be appointed for the debate upon the other letter, "touching the Lancashire forces."†

The orders of the day being read,

There was a great debate which should be presented, the Bill for Adventurers for lands in Ireland, or that for the new buildings.

The question was put for reading the Bill for the Adventurers, and the House was going to be divided; but it was yielded, and the Bill was read.

Mr. Speaker took notice that the Bill was of consequence, and there was a great noise in the House.

Major Morgan. You have need to attend to this Bill. I hope it will never pass; it is such a Bill.

Mr. Godfrey and others said, he ought not to pass his judgment beforehand upon any Bill, and it was unparliamentary; but he ventured to break orders, out of design.

The House rose at one o'clock.

Post meridiem.

Sir James Mac Dowell made a Report upon the Bill for the Assessments in Scotland,‡ which held two hours.

The Bill for satisfaction of the soldiers in Ireland, was read the third time, and several provisos offered to it, and passed.

Mr. Bond moved one, that none should have more land than is duly their share.

Mr. Bampfild offered another proviso to save the estates of

* "And soldiers, who served the Commonwealth in Ireland, before 1649." *Journals.*

† Ibid.

‡ "For raising 15,000*l.*" *Journals.*

Sir John Barrington, Mr. Turner, and other adventurers, “by virtue of the Act made in the 17th year of the late King Charles,”* which passed.

Major Morgan and Major Aston. As a mark of your favour, and as a memorial to posterity, that the Lord Deputy† has done you service, or has been there, sell out some lands for him in Ireland.

Lord Whitlock and Sir William Strickland moved, that he might have lands settled upon him to the value of 1500*l. per annum.*

Colonel Stewart seconded. The question was going to be put—

Mr. Bampffield. I move, that for your honour you would not give such large rewards to one another: it was the blame of the Long Parliament. You have most need to pay your debts to the poor souls that daily cry at your doors. I honour that person beyond any man; but it is not for your honour to do it at this time. Again, it is worth 30,000*l.* and that is money, and you stand in need of it.

Major-General Haines seconded the motion.

Dr. Clarges. He is Lord Deputy, and one of the Privy Council, and has several other great places of trust. They used, in former times, to give gratuities *ad sustentandum honorem, onus, et nomen*, and he well deserves a great deal more at your hands, than the sum propounded.

Major-General Disbrowe. I am sorry to hear such a question called for. If I were desirous to bring a reproach upon this honourable person, I would move this question. It is neither for his honour nor yours, at this season, to give gratuities of this nature. You are in debt to many poor people that want bread, whose cries ascend high; many poor soldiers unsatisfied, and great occasion for monies, as ever you had.

If I did not honour and love that person, as myself, I should not move you to lay aside this question. God has owned him, and he has a competent fortune, and is no worse that he has had no such mark of favour upon him.

* Ibid.

† Of Ireland, Lieutenant-General Fleetwood.

Mr. Moody moved for the question.

Mr. Godfrey. I am against the question, for the reasons alleged by General Disbrowe.

Major-General Goffe. It is much for the public service to put such a mark of favour upon this person that has deserved so well. I would have you put the question for the sum that is propounded.

Colonel Shapcott. This question comes in against the orders of the House; for you have resolved no private business shall intrude. I honour the person as much as any man, but I think it is not for your honour to give any such gratuities at this season, till your Public Faith, and other debts be paid. By the computation of those worthy members, who say that they pass assessments at seventy per cent, by this rule you give this person the seventieth part of Ireland.

Lord Lambert. I would not have it said the nation is in that weak condition that this will undo them. The honourable person deserves a great deal more; and my reason why I move it is, because I know it will not please him.*

I wish it had not been mentioned; but to lay it aside, will be a great discouragement to many good men. That gentleman speaks too late to the orders of the House, because the House is possessed now of it. That gentleman is mistaken in the computation, for it is not the 7000th part, nor another cypher.

Sir Richard Onslow. Now the question is moved, you cannot well part from it. It is no private business, but a public compensation out of the certificate-lands which were always given to honourable persons, that had so well merited.

Colonel White. I move, that for justifying yourselves, and that honourable person, you would insert it in your question that it is in compensation for all his arrears. I could wish it had not come in: but, as it is moved, you cannot, without reflection, lay it aside.

Major-General Whalley. We have as little need to be lavish of the public purse as ever; but, in such a case as this, I wonder it should abide any debate, knowing the eminency

* See his refusal to accept this grant, *infra*.

of this person, who has served you faithfully in both nations. I was an eye-witness of his merit. You have set him up as a beacon upon a hill, put him in high place; and I know he has not at all sought himself; has not improved, but rather impaired, his estate. He is a just man, and one that serves God. I desire you will put the question for this 1500*l. per annum*.

Colonel Briscoe. This person does eminently deserve as any man; but, for the censure abroad, and your present condition, it is not for your honour to do it at this season. I speak not this of myself, but by special commission from him. He, with great passion, and, I am confident, *ex animo*, did desire me that I would move against it.

Colonel Holland. It is not only an act of justice, but of mercy to the nation. It is your duty; and it would prejudice and dishonour the nation, if you should lay it aside. I have known him, when all were rewarded, refuse that positively; and if you stay till he consent to accept a gratuity, he will never accept it. You may keep your gratuity.

Mr. Gröve. Put the question whether that question shall be now put. I may hereafter be free to give my vote; but, at this season, I cannot, hearing so many clamours at your doors for just debts.

Major Beake. Lay aside this question. God knows upon what account I do it. We cannot cloister up this vote within these walls. It will appear without doors. You have followed the very worst path and track that the Long Parliament trod in; but if you will deliver yourselves and this person from the scourge of the tongue, keep your own honour and his too. It is hitherto unspotted. Your debts are insuperable upon you. Either you do it as an act of favour, or of justice: if of favour, you may choose a better season for it; if of justice, then justice ought to be equally distributed, and one may expect it as well as another. If I should move for another person, you could not deny it, according to the measure of his merit, for justice is alike; and how you will open a gap and stop it again, to such an inconvenience, I leave it to you to judge. The poor people's cries are a load upon you, and

such gratuities as these are ill-timed. I desire you would lay it aside.

The question being put, if that question shall be now put, *Mr. Speaker* declared for the *Yeas*.

General Disbrowe for the *Noes*. The *Noes* went out.

Yeas 43. Lord Lambert and General Montagu, Tellers.

Noes 42. Major-General Disbrowe and Mr. Bampffield, Tellers.

The main question being put, upon the motion of General Disbrowe, the House was again divided.

Yeas 45, went out. Major-General Whalley and Major-General Goffe, Tellers.

Noes 48. Major-General Berry and Colonel Shapcott, Tellers.

So it passed in the affirmative.*

Major-General Disbrowe. I move, that you will let no business break in upon you; but only matter of raising monies, and the settlement of the nations; which was resolved.†

Major Aston reported amendments to the Bill for Assessments on Ireland,‡ which were twice read, and agreed to in the gross, and ordered to be ingrossed.

Mr. Fowell excepted against the amendments, for that only the land of Ireland was mentioned, and no person's estate mentioned.

The Bill being read, it was found relating both to real and personal estate.

Mr. Bampffield excepted against the amendments, for that the title says, it is for three months' assessments; whereas the vote was to lay £20,000*l.* upon Ireland in a gross sum.

* "Resolved, that lands of inheritance, of the clear yearly value of 1500*l.* of the forfeited lands in Ireland, as they were in 1640, be settled on the Lord Deputy of Ireland, and his heirs, as a reward of his many faithful and great services done for this Commonwealth, and as a testimony of the great respect of the Parliament unto him; and that a Bill be brought in, to that purpose." *Journals*.

† "That nothing shall be admitted to intervene for these six days, but that which concerns raising of money, and settling the nations; and that Mr. Speaker do put the House in mind of this order." *Journals*.

‡ "For raising £20,000*l.*" *Ibid*.

He also excepted to the word "land," and that personal estate was not in the enacting part, but only in the directing part, for the way of levying it; but without an enacting power they could not. To solve this mistake, the words "the land of" was left out, and it stood only "Ireland."

Mr. Bodurda and *Mr. Godfrey* excepted against that pattern for a proportion, but would let it rather go in a gross sum. There was great weight laid upon this.

Colonel Shapcott. This is not worth the while. I hope you will remember this abatement when you come to tax Ireland.

Major Morgan. I hope you will put no greater burden upon Ireland than it is able to bear. You may do what you please with it; but though this gentleman is angry, and ready to lay such a tax upon Ireland, I hope the Parliament will not do it. Then I presume he will not. We look for abatement rather than increase, otherwise we shall not be able to undergo it.

Mr. Secretary. I move that the Bill for the 600,000*l.* a-year aid be brought in to-morrow, as being of the greatest consequence.

It was resolved that it be brought in to-morrow at two o'clock.

Dr. Clarges moved, that the Report upon the new-buildings be proceeded upon to-morrow morning; and so it was resolved, &c. Sat till eight.

Tuesday, June 9, 1657.



The Bill for Three Months' Assessments in Ireland* was read the third time, and passed.

After two hours' debate upon the third reading of the Post Bill,† it was also passed.

Dr. Clarges offered three or four provisos, which had but

* "For the maintenance of the Spanish war, and other service of the Commonwealth." *Journals.*

† "A Bill for settling the Postage in England, Scotland, and Ireland." *Ibid.*

ill success. He was against the whole Bill, and called it a monopoly. He said that he was advised by a friend, on Saturday last, not to meddle against this Bill, for that an honourable and eminent person was concerned in it ; but, rather than forfeit his conscience to the House, he would forfeit all friendship from any person whatsoever.

Colonel Jones excepted against such reflection, and justified the Bill to be no monopoly.

Mr. Godfrey tendered a proviso to continue the Bill for seven years, which was rejected.

Mr. West tendered a proviso that no man's horse should be taken without his consent, which passed.

Dr. Clarges tendered a proviso to free members' letters ; but it was rejected, and at last the Bill was passed.

The titles of the Bills to be carried up this day to his Highness were read.

Major Beake moved, that the carrying up the Bill for setting prices of wines might be suspended, for some time, in regard it has a retrospect, and it is not just to punish persons *ex post facto*. A thousand families will be undone by it, and the vintners have bought in their wines at full prices.

After debate awhile upon this, when some moved for a longer time, till 15th November ; others, to commence now ; and others said, that after the Bill was passed, we could not alter it, but must either repeat it, or set forth a declaration.

Mr. Speaker and *Mr. Downing* have known it done, and instanced in the alteration upon the Bill for naturalizing the other day, and this is of more consequence than the changing of a boy for a girl.

At last it was resolved to begin, the 15th August next.

Major-General Disbrowe. I move, that the Bill for Catechising be left behind, to be better considered on. There is something in it which will discontent many godly persons, and make them mourn.

Major-General Kelsey. I know it, that many godly ministers are discontented at it, and do mourn for it. If it pass

without further consideration, I doubt we may grieve at it, and repent it when it will be too late. I desire it may be suspended.

Mr. Vincent and Colonel Briscoe. I hope, if it were laid in the balance, more godly men rejoice at it than any that are against it. I do beg it on my knees that you would not forbear this Bill. You have but one Bill that concerns religion, and to leave it behind is very strange. I beseech you do not neglect such a duty.

Major-General Goffe. I second that motion, that the Bill be left behind. It does grieve the souls of a great many godly ministers. I am as willing to beg it on my knees as any man, you would not now carry it up.

Colonel Jones seconded that motion, and urged it strongly with the same arguments.

Sir John Thorowgood and Mr. Godfrey made a very earnest motion that the Bill might not be left behind. They despaired of ever doing any thing upon it after this, and hoped that such a Bill as this, which was worth them all, should not stop, and humbly moved that no such question be put.

Major-General Jephson. I move to leave it behind, without a question. It would not be handsome to have a negative upon it.

Mr. Godfrey, for some reason, moved, that it might be carried up without a question, as that was more proper.

Mr. Speaker declared for the *Noes*, upon that question.

The House was divided.

Yeas 82. *Sir J. Thorowgood*, and *Mr. Thomas*, Tellers.

Noes 7. *Captain Blackwell*, and *Major Beake*, Tellers.*

Major-General Goffe. Now the House is so full,† you could intimate to the members what public business you have, and how you are to sit, forenoon and afternoon, and desire they would attend.

* "So it was resolved, that the Bill for Catechising be now carried up." *Journals.*

† It has appeared from the former *divisions*, that scarcely ever more than one hundred members were present, and not often that number.

Lord Lambert moved that the orders, as to the designment of public business, be read ; and they were read accordingly.

Major-General Goffe. Observing the House at a stand, having nothing to do until his Highness give us notice of his being in the Painted Chamber, I move that a short bill for Mrs. Bastwick* may be read.

Mr. Godfrey and *Sir William Strickland* seconded that motion.

Lord Cochrane. This is a private business, and makes a breach into your order. So I move that you would not read it now.

Yet the House having nothing to do, the order was dispensed with, *nemine contradicente*, and the bill was read accordingly and passed.

Colonel Sankey offered a rider to be annexed to this bill for settling 100*l. per annum*, upon the widow of a poor minister in Ireland, one Mr. Moorcock, as was moved by the Lord Deputy.

The rider was long, and it was going to be read, but the serjeant came in and acquainted the House that the Serjeant-at-Arms attended at the door from his Highness.

Mr. Speaker moved that a new bill might be brought in, by a bill of itself.

Mr. Pury. I desire you would now receive it.

Colonel John Jones. Appoint a day to bring in a bill to this purpose, for I can say a great deal of the worth of this minister.

It was resolved that a bill be brought in to this purpose.

The Bill for Mrs. Bastwick was passed, and ordered now to be carried up for his Highness's consent.

General Montagu. I move to leave the bill for exportation of fish behind you, at this time. I have a petition in my hands against it, wherein it appears that it is destructive to trading.

Captain Hatsel. If petitions can prevail, I have two or three petitions for the bill. It does so concern your greatest

* See vol. i. p. 372.

trade, that is fishing, and your navigation, that you cannot suspend it without great prejudice.

So this bill was also ordered to be presented ; and another question put, both upon this and the other bills, as to passing of it, and deferring his Highness's consent, notwithstanding the former votes to that purpose when the bill first passed.

Serjeant Middleton came into the House, and * acquainted the House that his Highness was in the room next to the end lately called the Lords' House, and that he expected the Parliament, in the Painted Chamber, and so withdrew.

Hereupon Mr. Speaker, with the whole House, went thither,† (nobody leading Mr. Speaker, which was an omission,) and there ‡ a short speech§ was made by Mr. Speaker to his Highness, relating to the slowness of great bodies moving, and how our fruits were like that of the harvest, not all ripe at a time, but every thing in its season, and how he hoped that this was but the vintage, to the autumn the Parliament were preparing,|| and that it was not with their productions as with Rebecca's births, where one had another by the heel, but that their generation of laws was like that of natural generation, and that his Highness was the sun in the firmament of this Commonwealth, and he must give the ultimate life and breath to our laws.

Then, after the titles of thirty-eight bills were read, and the bills consented to, the thirty-ninth was offered, to wit, the bill for catechising, to which, after a little pause, his Highness returned this answer, " I am desirous to advise of this bill ;" which was entered by the clerk in these words. " The Lord Protector will advise of this bill."

* Having made two obeisances to the House, when he came to the middle of the House, with his mace in his hand, he declared to Mr. Speaker," &c. *Journals*.

† " The clerk, with the Bills in his hand ; and the serjeant, with his mace going next, and immediately before him." *Journals*.

‡ " Where was a chair set for the Speaker, and a form for the clerk." *Ibid*.

§ " A pithy and short speech, touching the deliberate and grave proceedings of Parliament." *Ibid*.

|| " Being but as some grapes preceding the full vintage." *Ibid*.

See a particular of these bills, *infra*,* and his Highness's speech.

This done, the House returned about two o'clock, and the Speaker offered to report what was done, but the House inclining to adjourn till three, it was so resolved.

At the rising of the House,

Mr. Bampffield, standing by the table, said, that his Highness never did himself such an injury as he had done this day.

Mr. Scobell † told him he ought not to say so; but he said he would say it anywhere.

Mr. Godfrey questioned the clerk for postponing‡ the Bill for catechising, who answered he had warrant for what he did. Being asked, who could give him warrant but the Parliament? he answered, he could well justify what he did.

Quere, how?

Post meridiem.

The bill for Three Years Assessment was read the first time. After the Report made of his Highness's speech,§ upon passing of the bills,

The Report upon the bill for the new buildings, was proceeded upon; and in the debate upon the Lord Clare's petition for abatement,

Mr. Pedley took occasion to reflect highly upon my Lord Clare, and said he was one of those that had forsworn building of churches. He had built a house for the flesh, (meaning the shambles in new market||) but he doubted he would hard-

* Designed, no doubt, to have been subjoined in the MS. See *Journals*.

† The clerk.

‡ Not presenting with the rest. See *supra*, p. 205.

§ "Mr. Speaker. I perceive, that among these many Acts of Parliament, there hath been a very great care had, by the Parliament, to provide for the just and necessary support of the Commonwealth, by those Bills for the levying of money, now brought to me, which I have given my consent unto. Understanding it hath been the practice of those who have been chief governors, to acknowledge with thanks to the Commons their care and regard of the public, I do very heartily and thankfully acknowledge their kindness herein." *Journals*.

|| Clare-market.

ly do as David did, build a house for the spirit ; and a great deal of this kind of language.

Mr. Speaker and *Lord Whitlock* took him down, and said, such scurrilous language did not become this place, and that if we would not do this person, who was an honourable person and well deserving, a favour upon his petition, we ought not to do him a displeasure by such reflections. We were servants to the people, and every freeholder as free in his estate and reputation as any man, and it is not our part nor duty to meddle with persons while we are debating of things.

It was moved, that the gentleman might explain himself, and others took high notice of the reflection.

It was moved, that instead of the petitioner's craving abatements, he might have his new market confirmed to him according to the Bill before us.

See the Journal for the result of this debate.*

I went to the post-house to meet Mr. Noel,† and stayed till past nine, and he came not.

Wednesday, June 10, 1657.

Mr. Bacon moved, to make the report touching my Lady Worcester.

Mr. Rouse moved something touching the University.

Divers other motions were offered, but the order of the day was read, and it was declared that no other business should thrust in.

Mr. Downing moved, that the Bills for Three Years' Assessment upon Scotland and Ireland might be brought in to go hand in hand with that for England; and the same was ordered to be brought in accordingly.

Sir James Mac Dowel and *Major Aston* moved the Bill for

* The questions "for exempting the buildings of the Earl of Clare, in Clement's Inn Fields, and thereabouts, out of the penalties of this Bill." Also, "that some allowance be made to the Earl of Clare, out of the fines that shall arise upon the new buildings in Clement's Inn Fields, and parts adjacent to him belonging;" both passed in the negative."
Journals.

† M. P. for Stafford; joint post-master general with Secretary Thurloe.

Three Years' Assessment upon England. It was read the second time.

Sir Christopher Pack. Before the last Bill, you were speaking of proportioning the assessment, and it was deferred till the next Bill. I hope you will now consider of a proportion, and especially consider of the city of London, who have a long time laid under the burthen of an excessive charge.

Mr. West. Make it an universal case, all the nation over, for other parts have as much cause to complain as the city. I therefore move that a Grand Committee may be appointed.

Mr. Speaker. First consider of a disproportion, what England, what Scotland, and what Ireland, and then fall upon a proportion of the counties.

Major-General Disbrowe. Debate this in the House: a Grand Committee will be too tedious. First proportion the nations, and then the several counties.

Sir Richard Onslow. These proportions were set when the House was thin, and some counties were double the proportions of others, and our side of the water double the other.

Colonel Jones. Some counties in Wales pay half; the least, a fourth or fifth of the revenue, yearly. I therefore move that you go on with England first, and then proportion the nations.

Mr. Highland. Proportion England, Scotland, and Ireland, first, and then go on with the proportions upon the counties.

Alderman Foot seconded that motion.

Mr. Disbrowe. I move that it may be debated in a Grand Committee, to the end that every man may speak his full mind.

Captain Baynes. First agree upon the proportions of the nations, or the counties first, and then resolve whether in a Grand Committee or a Private Committee.

Mr. Bodurda moved, that it might be referred to a Grand Committee to debate upon the Bill and the proportions, and to another Committee to consider of the alterations.

Colonel Shapcott. I have seen one alteration in forty-nine,

and another long before that, and it is fit there should be a proportion. First, to begin with the proportions upon the nations, I propound that it be thus proportioned: upon England, 35,000*l.*, Ireland, 9000*l.*, Scotland, 6000*l.*

Major-General Disbrowe. Consider what your neat revenue will be, and cast over what will be the charge of levying.

Captain Baynes. The contract with Ireland upon the adventurers going over, was to pay 10,000*l.* for a time, and afterwards 12,000*l.*, which time is out. I desire you will go according to that proportion.

Colonel Cooper. You are now going upon an equal proportion, and I hope you will not go according to a contract made without doors, that signifies nothing to a Parliament. But if you go by that rule it will be as broad as long; for there 120,000*l.* upon England, besides the fee farm rents, at 3*d.* an acre, which goes away with a fourth of your profit.

Major-General Kelsey. I move not to lay too great a burthen upon your plantations. It will but disable them, for the future, from being so serviceable to you.

Dr. Clarges. First consider England, and then the other.

Mr. Speaker. What remains, England must bear. You have a large course now; England, Scotland, and Ireland, are the matters of your debate.

Mr. West. It is not for the House to make England the pack-horse, to bear what the others will not. I have read of *filiâ devoravit matrem*, I wish it may not be so in Ireland. I stand up to second the motion that 35,000*l.* may be laid upon England, and the rest proportioned, after.

Mr. Highland. I cannot believe, as Ireland is now planted, that the revenue is so low as it is said. I think it may be very proportionable to lay on Ireland 9000*l.*

Colonel Cooper. I shall acquaint you with matter of fact, very faithfully, and with integrity. I know that in Ulster, at the least, a third-part is paid; and other parts pay as high. We must bear what you lay upon us; but this is the way to have us pay nothing hereafter.

Major Aston. In Lowth they pay half; and if you lay

such an excessive burden upon us, I am confident you will never have a member to come over again to serve you here.

Colonel Sydenham. I presume that gentleman intended to persuade, not to threaten you to an abatement. It has been our misfortune to have conquered nations lie still upon our charge; if Rome had done so with her colonies, she had not profited by her conquests. It is hard that we should bear always the burden. They pay nothing to highways, which we are charged with. I desire you would lay 10,000*l.* a-month upon Ireland; and I think it is a very easy charge.

Mr. Young seconded the motion, that there may be 10,000*l.* a-month upon Ireland.

Mr. Alderman Tigh. The assessments are excessive in Ireland; and you will undo the people for ever if you lay any fresh burden upon them. So I move to lay 36,000*l.* upon England; 7000*l.* upon Ireland; 7000*l.* upon Scotland.

Colonel Sankey. It would be really for your advantage to abate them for three or seven years. I think 5, or 6,000*l.* over-charge will be enough, and be a good refreshment to you. The highways are very chargeable to us there. The Tories cause taxes upon us. The wolves disperse and destroy our flocks.

Major Morgan again, upon motion to speak. The Romans always lost their conquests by laying too great burdens upon them; so that that argument is mistaken. Our churches, bridges, sessions-house, and all houses, are pulled down; not one standing.* We have three beasts to destroy, that lay burdens upon us:—

1st, is a public Tory, on whose head we lay 20*l.* and 40*l.* upon a private Tory's.† Your army cannot catch them; the

* This speaker was M. P. for Kildare and Wicklow; to which, probably, this scene of desolation refers.

† What was the distinction of *public* and *private* does not appear. What the word *Tory* now designed, is thus explained by *Rapin*:—

“On appelloit, en ce temps-là, *Torys*, certains brigands ou bandits d'Irlande, qui se tenoient sur les montagnes, ou dans les isles qui forment les vastes marais de ces pays-là. On les nomme, à présent (1717) *Rapportees*.” See “Dissertation sur les Whigs et les Torys,” annexed to *Histoire d'Angleterre*, (1727) x. 211.

Irish bring them in. Brothers and cousins cut one another's throats.

2d. beast, is a priest, on whose head we lay 10*l.*: if he be eminent, more.

3d. beast, the wolf, on whom we lay 5*l.* a-head, if a dog; 10*l.* if a bitch; and many other charges.

It is not your interest to flay, but to clip your sheep, if you hope for another fleece. I am ashamed to tell you what a proportion I think is fit at this time. If I should tell any thing (though it be never so true), I should gain no credit by it, if it seem improbable. If you spare it awhile, haply, in some time, it may be able to pay as much as England. I know some in Ireland that pay 15*s.* in the pound. I know others; but speak of a third-part.

Captain Baynes. Ireland has most reason to pay land-taxes; for that England and Scotland raise all your customs and excise in regard of their populousness,* that being raised by the consumption. Buying lands so cheap, they may in reason pay a greater proportion. Many have had their lands at an easy rate. I can bring good reasons why, if Ireland pay 12,000*l.*, it is but proportionable to 30,000*l.* *per annum* for England. As to the contract, they were bound to pay only that, be the assessments upon England never so much. Though we were trebled, they must bear no more. The burden lies very well upon them that may bear it; for they had their lands very cheap. If you put 10,000*l.* a-month, you abate them in those three years, 100,000*l.*; and that is a good compensation for the 30,000*l.* that they give towards the Spanish war.

Major General Disbrowe. 10,000*l.* is too high upon Ireland. So I would lay 8,500*l.* upon Ireland; 5,500*l.* upon Scotland; and 36,000*l.* upon England.

Mr. Bodurda. It is a hard thing to pass a sentence upon

* Sir W. Petty, writing about this time, says—"By comparing the extent of the territory with the number of people, it appears that Ireland is much underpeopled; forasmuch as there are above ten acres of good land to every head in Ireland; whereas in England and France there are but four, and in Holland scarce one." See "The Political Anatomy of Ireland." (1691) p. 120.

the justice of your proportion in this case. It is not the greatness of some few persons' estates that can raise such a tax as this. It must be, that the ploughman, the honest countryman, and farmer pay most. I like not a debate upon this account, if it could be helped. I would not have us be penny-wise and pound-foolish; otherwise there is a great part of that nation unplanted. But I know no reason why Scotland, that is so fully planted, should be spared, and the burden at this time laid upon Ireland. My motion is, that 8000*l.* may be laid upon Ireland; and I doubt that 36,000*l.* will come to be the proportion of England.

Colonel White. I would not have our own people oppressed because they are in Ireland. It will not lie upon the Irish I do not conceive Ireland bound by the contract, as you have broken in upon it in laying the 20,000*l.* Let that go; and I think a sixth-part of what England and Scotland bears will be equal for Ireland; that is 8000*l.*: but if you please to put it at 9000*l.* I shall not be against it.

Mr. Bond. The first sum that was named was 10,000*l.*; so I move the greater sum may be put first, and then go to an abatement.

Colonel Matthews. Look upon the contract again. They, of their own accord, came to an agreement at 12,000*l.* when they were less quiet than now. They are settled in their possessions more than ever, and there is more reason to pay. I would have you look upon your own nation.

Lord Lambert. Lay such a proportion upon Ireland as may increase; for they grow better and better. Begin with 8,000*l.*, next 9,000*l.*, and next 10,000*l.* It is requisite that you give a signification of favour to Ireland with respect to England; yet it should be eased, as Ireland appears able.

Sir Richard Onslow. 12,000*l.* was moved, and 8,000*l.*; and 10,000*l.* is a medium, so I would have that question put.

The question being put upon 10,000*l.*, *Mr. Speaker* declared for the *Yeas*.

Alderman Tigh for the *Noes*. The *Yeas* went out.

Yeas 71. *Mr. Barrington* and *Mr. Harvey*, Tellers.

Noes 51. *Colonel Sankey* and *Colonel Cooper*, Tellers.

So it passed in the affirmative,* and the debate was adjourned till two. The House rose at one.

Post Meridiem.

Mr. Pury moved, that the debate be resumed; that 6,000*l.* a-month may be laid upon Scotland.

Mr. West moved for 5,000*l.* a-month.

Major Aston. I move to set 20,000*l.* a-month; or at least, 12,000*l.*: for they are a richer nation, in respect of the majority of the inhabitants, than Ireland.

Mr. Vincent. I move that it may be 5,000*l.*; for they never bore above a twentieth part with England. This is an eighth part of what remains.

Captain Lilburn. I second that motion, that they may bear 5,000*l.* It is a very poor country, and, unless near the south sides, they make little of their grounds; being only mosses and sheep rakes.

Colonel Shapcott. I move, lest Ireland should be discontented, that you be not too favourable to Scotland. I would have it 6,000*l.*, and that is a very indifferent proportion.

Captain Baynes. There is no such thing as a contract with Scotland; but we must go to the equity, and I think 6,000*l.* a very good proportion.

Dr. Clarges. I cannot express the poverty of Scotland. Ireland has too few inhabitants,† and they have too many. I move that 5,000*l.* a-month be laid.

Major Audley. I wish we had taken this into consideration in the morning, while it was fresh in our memory; that we might not forget that we are Englishmen. I think, in my conscience, if you take measure by what you have done to Ireland, you cannot lay less upon Scotland than 10,000*l.* But if you take measure by England, then 6,000*l.* is enough.

* Resolved, that the rate for Ireland, in the monthly assessments for three years, shall be 10,000*l.* by the month." *Journals.*

† See *supra*, p. 211, note.

Mr. Downing. For saving your time, though 5,000*l.* be enough, yet if you please, put 6,000*l.* I could say much for Scotland: being employed, all along, in that business. I know what Sir Henry Vane and the commissioners* computed, that Scotland was a twelfth to England, and a tenth as to the people. I know it to be very poor; therefore I desire you would put the greater sum first.

The question was put for 6,000*l.* and passed in the affirmative.

Resolved, that 84,000*l.* be laid upon England.

Mr. Downing. I move that you will consider now of the proportioning the assessments. You have not time to debate it at a Grand Committee; but determine in the House what you will do now.

Major-General Whalley and Colonel White. You have not time now to proportion it, neither in a Grand Committee nor otherwise. Continue this for six months, and in the meantime take care for a proportion.

Mr. West. I had rather sit twelvemonths to proportion this, than rise under the dishonour of delaying justice in this case, which makes the assessments go down hardly.

Mr. Godfrey. Take it into consideration, and try what you can do in this case. If you find that you want time, you may make it for six months. Haply some other rule may be propounded, as that of ship-money.† We may take the equality, though not the illegality of it.

* In 1643. "The English Parliament resolved to send Commissioners into Scotland, to negotiate a Treaty of Assistance, who were the Earl of Rutland, the Lord Gray of Wark, Sir William Armyn, Sir H. Vane, junior, Mr. Hatcher, and Mr. Darley. But the Lord Gray, refusing to go, because of his inability of body, for his contempt was committed to the Tower. The other five, with two ministers, Mr. Marshall and Mr. Nye, appointed to attend them, set forward July 20. They arrived at Leith, August 7th, whence they were conveyed to Edinburgh, on the 9th, by the Earl of Lindsay and Sir Archibald Johnston: and delivered a declaration of the two Houses, expressing the substance of their errand to the Convention of the Estates, and another to the General Assembly."—*Rushworth*, (1708) v. 199, 200. This Commission gave occasion to the famous "Solemn League and Covenant."

† Invented by Attorney-General Noy. The first writ was issued in 1634. See *Rushworth*, (1706) ii. 213; *Parl. Hist.* viii. 292.

Mr. Speaker. I have known this often moved in Parliament for a rule, and it was rejected with great indignation.

Sir Richard Onslow. Though ship-money was illegal, yet the pattern and rule may be just. We are put off from time to time for a proportion. Let us try what we can do.

Mr. Lister. You have not time now to consider the proportions. The place for which I serve* stands as much in need of an abatement as any; but it were better to let it alone till next meeting.

Mr. Bond. I must justify what was said as to the rule of ship-money. It was cast out of this House, with great indignation† and would never be admitted. It was long debated whether to go by the 36 or 35 Eliz., and it was carried for the 35 Eliz., and indeed that has pinched some counties. There was 200*l.* more clapped on Dorset, the county for which I serve, when we had not a member here.

Mr. Disbrowe. I move that you would make some trial now; and if you find it difficult, adjourn it till next time.

Mr. Church. If it be put off now, I despair of ever doing it. God knows whether we shall ever have the like opportunity of doing justice. You know who says, put not off till to-morrow.‡

Mr. Highland. I would not have you do any thing now. I should be loth to meddle with that ugly rule of ship-money. Lay it for six months, and consider it next meeting; lest the House run upon the same rock that the Long Parliament did, in passing things in a thin House. There were many members excluded then, and more now.§

Mr. Fowell. The rule of the ship-money was a rule: and an ell of velvet, and an ell of canvas, may be measured by the same ell. It was the policy of the King and his council to lay it proportionably, to the end that the equality might take off the illegality. But I think you have not time now

* Westmoreland.

† In 1640, when it was denounced in Pym's Speech on grievances.—See *Rushworth*, (1706) iii. 252.

‡ Probably, referring to Prov. iii. 28.

§ See vol. i. p. 262. Note †.

to consider this. I would have a clause in the Bill, that it may be taken into consideration at the next meeting.

Captain Baynes. I hope you will never take such an unjust rule as that of ship-money, or any old rule: for that many towns and places are wholly destroyed, and, without a survey, I know not how you can do it. I am sure I have two counties to speak for* that are overburdened.

First put the question, whether you will make any alteration; and dispute the time of continuation afterwards.

Colonel Sydenham. I look upon the way propounded as very impracticable. It is not a day's journey in this business, or a forenoon, that will do the work. Every member will expect the liberty to speak something for his county. It is better not to promise the nation, than to disappoint them. I would have no clause to mention a proportion.

The providence of God may take assessments quite away. If you go by the rule of ship-money, you will but tumble about the nation, and stir up the fire that is hardly yet quenched.

If you go to proportions, and tell the nation so, they will be afraid that assessments shall be perpetuated upon them. I would have you not to engage yourselves in a debate of this nature at this time. It will be impracticable, difficult, and impossible; and not for your service. Besides, the House is thin, and you have not time to debate it now.

Colonel Jones. We may, in the present Bill, go to the proportions. The proviso will be but like a continual claim. We have had promises of abatement. I would have us try what progress we can make in it, and if we find it difficult, leave it till next sessions; but I am not for making it for six months only.

Sir John Hobart. I am glad to see and hear this debate. So far as I have observed, I find the disproportion more grievous than the tax itself. Every one, it is true, complains of a disproportion; but when we come to divide the child,† we shall see who is burdened. It is true, every man is bound to say for his county; but he is more bound to justice. The

* He was M. P. for Leeds. † An allusion to 1 *Kings*, iii. 25.

general concernment of justice is more our interest than any county. This is a far greater time* than ever a tax was laid for. I would not have you put it off with a proviso. I doubt my eyes shall never see a land-tax laid down.

The gentleman† that said we should have much ado to make up the revenue of 180,000*l.* surely contradicted himself; for he said he hoped that assessments would be taken off, and that we had a fair promise of abatement. For my part, unless you do something in this, I think you continue a burden very long.

Sir William Strickland. It was not the true mother that divided the child. It may be that some that are thought to be easy, will appear to be heavy enough; if you should find that some have paid more in one year than others shall pay in forty years. Some have been utterly undone.

Mr. Vincent. There may be an inequality, and yet no injustice; the miseries of those counties, upon which grounds those abatements were made, remaining. Some have lost more in six hours than would pay their assessments in six years. I hope you will not judge men unheard. This must be a work of time. I move that you would put it for six months, and proportion it next meeting.

Mr. Secretary. I admit that rule, that no man ought to be condemned unheard. As I would have that a rule for one, so I would have it for the other. Many of us are overburthened. Those that are eased would not willingly come to a proportion. I would have something done in it.

Sir William Strickland. All rules and proportions are the best done by men's abilities. The child unborn will not forget our miseries, if he live to David's seventy years. If you will not raise combustions and stirs in counties, then you must alter the proportions. We are but now three or four that serve for Yorkshire,‡ and should be twenty-eight or thirty.

Colonel Briscoe. I move not to alter the proportions now; for you have neither time nor a full House.

* Three years. † Probably Colonel Sydenham: *supra*, p. 216.

‡ There appears to have been twenty-three chosen for the county and towns, but of these eight are described as "denied admittance." See *Parl. Hist.* xxi. 17.

Captain Hatsel. I would as fain have a proportion as any, but doubt you have not time for it now.

Captain Lilburn. I move that you would not now put the question.

The question being put that the rates be continued as now they are, the House was divided: the *Yeas* went forth.

Yeas 48. Lord Lambert and Major-General Lilburn, Tellers.

Noes 64. Sir Richard Lucy and Mr. Puller, Tellers.

So it passed in the negative.

Colonel Shapcott moved, that the proportion might be according to the rule of ship-money, as most equal.

Captain Baynes. That was a very uncertain rule. Many cities were quite destroyed, others in part, and in the City of London, though increased in buildings, yet house rent was higher.

Mr. West seconded that motion of *Colonel Shapcott*; for he has talked with many persons that understood ship-money that say it was very equal.

Mr. Speaker and *Sir William Strickland.* For your honour, never mention ship-money. Had that gentleman been one, when it was condemned in Parliament, he would never have mentioned it. It is neither agreeable to the rule of physic nor divinity, to apply such a remedy. That gentleman is given to change. The judges have been pulled off the bench for it.*

Mr. Highland. Never take such a precedent as ship-money, but rather go to the proposition of the 24,000*l.* in 35 Eliz.

Colonel Jones and *Sir Richard Onslow.* Go that way to work, that being settled in Parliament; and adjourn the debate till to-morrow, and let the fifteenths in that be a rule.

Lord Strickland and *Mr. Speaker.* The orders of the House are, to debate matters of this nature.

* "Feb. 13, 1640," says *Whitlock*, "the Usher of the Black Rod came to the King's Bench when the Judges were sitting, took Judge Berkley from off the Bench, and carried him away to prison." *Memoirs*, (1752) p. 40.

Lord Lambert. I would have no tittle of ship-money remain. It will appear that it is not so just a rule as is moved. I wish you may find a better way than you have laid aside. I have known something of that, that four, five, or six counties, will be double, treble, or four times what they were before. If you reduce it to any rate, it will not be fit to do any thing in this, till all the members be heard that serve for the several counties. I hope you will hear every man, what he can say to the proportions. If it be any old rule, there have been great alterations. Some poor villages have become great towns; others that were great towns, have become depopulated. You will, it may be, if you go by a very old rule, find London a little town. Whenever we meet again, let us have the liberty to consider that rule, and give every man liberty to speak to it.

Judge Smith. I am sorry to see your affairs so disproportionate to your time. I doubt you are upon a business that will scarce be ended in our days. I am afraid we can do nothing in it, though I stand as much in need of ease as any. I am sorry to hear such a rule prescribed.

I hope that *monstrum horrendum*, ship-money, will never have a mention here, as a rule. It was as well unequal, as illegal. In the county where I lived, an Earl, viz. Earl Louth, paid but 40s. to ship-money, and my shoemaker 3*l*. I paid myself but 7*s*. It was very unreasonably laid, and I wonder to hear it in this place.

Thursday, June 11, 1657.

Mr. Femeick presented a paper against Sir Robert Collingwood, and Daniel his son, and Mr. Pemberton, for words spoken against him. Sir Robert Collingwood said, "he was a base fellow; his father was hanged for felony; and he did wonder who sent him to the Parliament." This paper was read.

Sir William Strickland. That gentleman's father was a person of blood and worth, and died in his bed. Of the gentleman himself, if he were not present, I should say more.

He was the first that brought in the Scots to your help.* He was banished for his conscience, &c.

Major-General Dishbrowe and *Mr. Highland* moved to put off this, till next meeting, and to refer it, in the motion, to the justices to examine.

Sir William Strickland. The business needs no examination; the party that informs is at the door: his name is Mr. Robert Ogle. (*Anglicè* Ranting Robin.)

Mr. Speaker. Mr. Fenwick's father was born in the same parish that I was born in. He died in his bed, and all his neighbours were at his burial. He was of an ancient family; Sir John Fenwick's† next kinsman, who is of worth in that county.‡

The informant was called in, and justified at the bar all that was contained in the paper,§ and withdrew.

* In March, 1642-3, when, says *Whitlock*, "the Scots pass over the Tyne, with a complete army, to assist the Parliament."—*Memorials*, (1732) p. 68.

† The father, probably, of Sir John Fenwick, who was beheaded for treason against the *Revolution* government, in 1697.

‡ Northumberland; for which the members were, besides, Sir Thomas Widdrington, the Speaker, William Fenwick, and the present complainant, Robert Fenwick.—*Parl. Hist.* xxi. 12.

§ "The information of Robert Ogle, of Eslington, in the county of Northumberland, Gentleman, who saith, that in April last, he being at his Inn, at Alnwick, in the said county, Sir Robert Collingwood, of Branton; John Salkeld, of Rock, the younger; Daniel Collingwood, son of the late Sir Robert; and one Robert Pemberton, came into the room where this informant was; where, falling upon discourse about a king, Sir Robert Collingwood said, 'We must have a king, and will have a king; and my Lord Protector dares not refuse it.'"

"And afterwards, the said Sir Robert Collingwood began to inveigh against Robert Fenwick, Esquire, a member of this present Parliament, saying, 'He was a base fellow; his father was hanged for felony; and he did wonder who sent him to the Parliament.'

"And further, this informant saith, That some few days before, he being in company where Cavalier gentlemen were murmuring, that they had been debarred from horse-races, Daniel Collingwood, son of the said Sir Robert, thereupon took liberty to say, 'that there was none now in power, but the rascality, who envied that gentlemen should enjoy their recreations.'" "ROBERT OGLE." *Journals*.

Mr. West. I move for exemplary justice upon this person who hath abused both a worthy member and the Parliament and all intrusted by you; and that the parties may be sent for, as delinquents, and remain in custody till next sessions.

Colonel Skapcott, for saving time, shortly seconded that motion, and it was so resolved, that they be sent for as delinquents, &c.

See the examinations and all proceedings upon, *infra*.*

Dr. Clarges reported amendments to "the Bill for preventing the increase of new buildings."

Mr. Speaker reminded the House of what was moved by Captain Baynes in the morning; for a day to be appointed for the Grand Committee, touching the Excise, to sit: but there was no resolution upon it.

Dr. Clarges went on with the report.

There was a great debate upon the proviso, about the lime and brick-kilns to be removed five miles from London.

Mr. Speaker was zealous for the proviso, and the citizens against it.

Mr. Bond. The citizens are not sensible of what is their own good. Indeed I never knew them make any motion in this House but it was for their own good. It is a great nuisance, certainly, the smell of those kilns.

Some moved that they had consulted physicians, and one at the Committee affirmed it was a wholesome smell of brick-kilns.†

Post Meridiem‡.

Mr. Bampfield reported from the Grand Committee for Religion.§

* The writer of the MS. has given no farther particulars.

† "The question being put, that this House doth agree with the Committee, in the clause touching making of lime or brick, within five miles of London; it passed with the negative."—*Journals*.

‡ There is a blank in the MS. for the afternoon of June 11th, 1657, which I here supply from the *Journals*.

§ See Vol. I. p. 351. *note* †. The following is the Report:—

"At the sub-Committee for Religion, concerning false printing the

Ordered, that the Grand Committee be moved to empower this sub-Committee to send for such godly, learned ministers, and others, as they shall think fit to advise with, concerning the best versal of the Psalms, on the amendment of Mr. Sternhold and Mr. Hopkins's Versal of the Psalms, or any other, if need be ; and what is fittest to be done thereupon.*

Resolved, by the said Grand Committee, that this business be presented to the Parliament, and that the House be moved to secure the person of the printer.

Resolved, that the House be moved, that they will be pleased to give order, that the impressions of these Bibles in the printer's custody be secured, and those sold be called in.

Ordered, by the Parliament, that the 7900 bibles, in 24mo. printed in the year 1653, secured by the sub-Committee of the Grand Committee for Religion be seized on, to prevent the sale and dispersing thereof.

Bible and the Versal of Psalms, printed by Mr. Hopkins and Mr. Sternhold, and to offer a better, if thought fit, November 12, 1656.

"Among other late impressions of the Bible, yet under examination, this Committee have examined the impression particularly referred, in 24mo. printed in the year 1653, which is acknowledged by Mr. John Feild, Printer, to be by him printed ; and that he printed to the number of about 2000 of them.

"That in the said Bible, there are already discovered several omissions and mis-printings.

"That Mr. Feild hath alleged something in extenuation of his fault. But, in regard, the Committee have not power to take cognizance thereof, they thought it not fit to proceed to the examination of the truth thereof.

"That the Committee, by two of their members, have secured 7900 of the said imprinted Bibles in Mr. Feild's hands, till further order : which are all at present discovered, and remain unsold.

"That, we understand, there are yet in the hands of several Booksellers, in and about London, and the country, many of the said Bibles undispersed, It is humbly offered by the Committee, as their opinion, that some speedy course be taken to prevent the dispersing the said Bibles, now in Bookseller's hands ; and that order may be given concerning these in sheets secured.

"The Committee have under examination other Bibles, which are discovered very faulty."—*Journals*.

* See Vol. i. p. 349. note †.

Ordered, that John Feild, the printer, be required to get in such books as have been of that impression; and that he do attend the House the first Wednesday in November next, to give the House an account thereof, and also touching the mis-printing the said Bibles.

The House resumed the debate* upon the amendment to the Bill touching buildings.

A proviso in the amendment concerning sailors and mariners was read.

Another proviso was tendered to this Bill, touching building upon two hundred and fifty acres of meadow, lying by the State's dock at Deptford, for making of a mould, lately purchased of Sir John Barkstead and his regiment, by Roger Stanton and others, upon encouragement of the making a mould or harbour for riding of two or three hundred sail of ships of England, without anchor or cable; towards which, much hath been already expended and contracts made to a great value.

Ordered, that this proviso be referred to the same Committee to state the matter of fact, and report their opinion therein to the House.

Friday, June 12, 1657.

The House being informed that some aldermen of London were at the door with a petition, they were called in.

Alderman Foot made a speech at the bar, opening the substance of the petition, which was to desire the Bill for the Adventurers for Lands in Ireland might pass before the adjournment or prorogation of the House; to the end, that the honour of the nation may not be violated, nor such a high security impaired. Hereupon the petitioners withdrew, being near forty persons, and the petition was read.†

* See *supra*, p. 221.

† "Resolved, that the Bill for Adventurers for Ireland be read on Monday next." *Journals*.

Major Morgan. I move, not to cross the reading that Bill, that before you settle other men's rights to those lands, you would settle your own title to them. To that purpose that you would order the report upon the bill of attainder, to be made next after the Bill read.

Mr. Speaker. I move that those clamours at the door may be stopped ; (they are ready to pull off my gown ;) and that the Public Faith and Bill for Creditors be considered, before your rising.

Colonel Jones. I move that the Committee, to whom the proviso in the Bill for New Buildings was referred, may bring them in, ingrossed, with the Bill ; and if you have any thing remaining of the Report, that you would perfect it now.

The Report was resumed accordingly.

Mr. Vincent offered a proviso, that all the overplus of 400,000*l.* to be raised upon this Bill, shall go to the satisfaction of the Public Faith.

After an hour's debate upon it, this was laid aside without a question, and the Bill was ordered to be ingrossed.

The Lord Deputy. You were pleased to put a mark of your favour* upon me undeservedly. I did not know any thing of such an intention ; nor do I undervalue your favour ; but think that what you give, is as good as any thing I shall leave to my children. But I consider your condition, that many debts and charges lie upon you, and I am tender of your honour, considering what reproaches may lie upon you by this means. I desire that you would not pass any such sum to me till you be in a better condition.

I have here a paper in my hand from some members that serve for Ireland, relating to the great sufferings of that country, by the high tax now laid upon them, which will undo many families. Scotland is better planted, and easily rated ; and England is not so high as Ireland.

The petition was read, and signed by several members that serve for that nation, that the sum laid be taken down to 7000*l.*

* See *supra*, p. 197.

Colonel Shapcott. It is against the orders of the House, at this time, to offer this paper. When the Bill comes in, it is more proper. I desire you would go to the orders of the day.

Colonel Philip Jones. If it be improper and against your orders to consider it now, I move that you would take a time for it when the Bill comes in.

Major-General Whalley. It is the first precedent of a petition signed by any member of Parliament. They have liberty here to speak for themselves.

Mr. Bond and Sir Richard Onslow. No man has liberty, without leave, to speak against your order. When the Bill comes in, any man may speak against every part of the Bill. It was never known that any members petitioned us, but when we sent them to the Tower.

Mr. Highland and Colonel Holland. If you do nothing in it now, when you have proportioned the counties it cannot be done.

Mr. Butler. The honourable person has done himself more honour by his self-denial than you have done; so I wish that every man would write after his copy. For the other motion, it may be more proper when the Bill comes in.

The Lord Deputy. If you do it not now, it is as much as to say you will not do it at all. When the proportions upon the several counties are laid, there will be no possibility to add to them. I stand up to second my own motion that you would now do something in it.

Sir Thomas Wroth. Have it lessened to 7,000*l.* per annum; but it is not proper now to move it.

Lord Whitlock. It is now the most fit to do it, if you intend any abatement to them. It will be too late when the proportions are set upon the several counties.

Major-General Disbrowe. Put this question off your hands; and, if you please to give way to an abatement, I shall move that it be taken down to 8,500*l.*

Lord Strickland. For the danger of the precedent, return the petition. Let not such a thing remain. What you will do upon the equity of the case is another thing.

Mr. Trevor. This is expressly against the orders of the House. I never saw such a precedent. This petition looks like a remonstrance, or I know not what it is. I would not have you entertain any debate at all upon it. I should as freely consider Ireland as any man; but at this time it is utterly improper.

Captain Cox. I move that you would not so consider Ireland as to neglect England. They bought their lands for nothing, and they would have their taxes nothing.

Colonel Holland. If you ease Ireland now, they may be able once in three years to bear double or treble of what they bear now. I move that they may have 2,000*l.* abated, and set it at 8,000*l.*

Sir Richard Onslow. I like not this precedent. It is an ill precedent for members to come in upon a petition.*

I consider Ireland as much as any man, but had rather have it to-morrow; and that in the mean time you would consider the proportions of your own counties, and then add a tenth or a twentieth as you think fit.

Colonel Carter. I move you would give leave to speak against your vote, and that in gratification of that honourable person that brought in the motion, that denied himself, by returning the favour that you were pleased to give him.

The question being put, that leave be given to-morrow morning to speak against the vote, the House was divided. The Yeas went out.

Yeas 71. The Lord Deputy and Colonel Jones, Tellers.

Noes 50. Mr. Nevil and Colonel Blake, Tellers.

So it passed in the affirmative.

The order of the day was read, and after *altum silentium* for a while,

Mr. Bodurda. I could have spoken sooner, in respect of the burden that lies upon the county for which I serve.† I wish I could propound a proportion to you.

* "The example of it being disliked generally by the House, the petition was withdrawn by consent of the House." *Journals.*

† Anglesey.

I have had occasion to look into your Journals, and find that the rates were altered in a very thin House. The House was divided upon the question, as it was the other day about alteration of the rates. The *Yeas* were but 23; the *Noes* 19. Then it was referred to the Committee of the Army to bring in rates. Upon these rates the House was again divided; the *Yeas* 28, and the *Noes* 16. So that the House was one time but 42, and the next time 44. Many counties had not members to serve for them. The rates, before 1649, were set in full Parliament. I desire that might be your rule.

Mr. Highland. Many that were abated then are now burdened, as Kent and Surry. Middlesex is most easy of any in England. I would have it continue at the same, only for six months, and regulate it when you have more time.

Mr. Bedford. I second the first motion, that that rule was set in full Parliament; and I would have that be your rule of rules.

Major-General Haynes. This paper* is a pretty artifice, and carefully printed and dispersed. It is on purpose, I doubt not, to gain votes, because the number of counties that were raised are the greater number. The paper does not set forth what those counties paid before they were raised. I shall not propound you the rule of ship-money, though I believe it was very equally laid. If the gentlemen go by those rules, I can make it appear that not above six or seven counties paid the whole assessments. I doubt you will never do it, county by county, unless you agree on a rule. I move that you would go according to a pound's rate, at 12*d.* a pound.

Mr. Young. I move that you would go by the 400,000*l.* subsidy. I serve for the county† that was raised 600*l. per annum.* But if you go county by county, you will never do it, unless you agree on a rule.

Sir Richard Onslow. The ship-money was most equal, unless that two or three counties were burdened by it. That

* Probably the Petition. See *supra*, p. 224.

† Shropshire.

of Northumberland is a mistake. I confess it is not just to come to the proportion, before 1649, though we should be eased by it. We had none to represent us in Parliament then.* So that, though we were of the association,† and stood in need of ease, we were raised instead of it. I would have you go by a pound rate, and let the surveyors be sworn, and then they will make a true presentment; otherwise, if you would go from county to county, and see which is eased, which is raised, and you may take the rule‡ and abolish the name. It is like physic in a dirty box—the physic is no worse.

Lord Strickland. I am sorry that gentleman can find no other way to relieve his county than by setting up ship-money again. There is a bridge over the water, he stands in no need of a ship. He says that was laid out of doors, by persons that are of no county. I hope he will not say but they are of some county. I know that was as unequally laid as any tax whatsoever. I knew a tapster raised to a knight and a great man, by raising ship-money so high in the town for which I serve;§ and as he got this height so he fell; for his children, many of them may be fain to turn tapsters.

That gentleman said his county was in a fever, and therefore, though he got no remedy by it, he got change. So it be but a change, it will please his country. I thought he would have fetched his rule rather from divinity, on "them that are given to change;"|| but to fetch it from physic, it is the first cure that ever I heard of that kind prescribed for a fever, to change one's bed.

The debate not well relishing in the House, they presently called to adjourn.

* Sir Richard Onslow and Sir Ambrose Brown, the members for Surry in the Long Parliament, were among the members *secluded* in 1648. See *Parl. Hist.* ix. 43.

† One of the Associated Counties.

‡ Of the ship-money.

§ Newcastle-upon-Tyne.

|| *Prov.* xxiv. 21.

Post Meridiem.

Mr. Bampfield brought in a Bill against gaming and betting, and persons that live at high rates.* The Bill was read, and wanting a brief—

Mr. Speaker was casting it away, and said he was not able to play at all those games without a brief.

It was moved for a day for the second reading.

Mr. West. I move that the Bill be returned back to the gentleman that brought it in. I except against the extravagant powers; and that lawful games are forbidden, such as bowling, which many honest men use. My Lord Protector himself uses it. I would have some gentlemen added to the Committee that are more favourers of lawful recreations.

Mr. Bampfield. If that gentleman had understood the Bill, he would not have excepted against it. It does not prohibit bowling, but only unlawful games, and betting too excessively. There were very honest worthy persons at the drawing this Bill, Lord Whitlock, Sir I. Long, and myself.†

After a little while debate, the Bill was appointed to be read the second time on Wednesday.

The orders of the day were read.

Mr. Godfrey. None of the rules of proportion propounded are either equal or practicable; whether that of ship-money, the 400,000*l.*, or 120,000*l.* subsidy. You have a clause in the Act, which was chalked out to you by the little convention,‡ as a way to bring it to an equality; but, in regard of the straitness of time, you have always let loose that rule by a proviso. Now you are likely to have time enough to find out a way for yourselves. To this purpose, I would have the rate set for the first six months as it is. Lay that by a pound rate, and return the surveys against the next meeting.

* “ A Bill for punishing such persons as live at high rates, and have no visible estates, profession, or calling, answerable thereunto.” *Journals.*
† See *supra*, p. 159, note †
‡ In 1683.

By this you may trace it out in time, and, comparing the proportions one with another, may draw out an equality at your next meeting.

Mr. Speaker. I remind the House that the first three months' assessments are to be paid in before Michaelmas next. If you go to alter your rates, the assessments will come in but slowly. I doubt you will fail in your design.

Major-General Whalley. I can find no certainty, nor any equality, in any former rates; they are very disproportionable. I am for a pound rate, but not for setting proportions; for there will be a delusion in it. So every county do but pay their sums, it is sufficient. I would have you lay it at 6d. per pound, and the survey to be taken upon oath.

Major Audley. I second that motion: to wave the proportions, and to lay it at 6d. per pound for six months; and that this may be done upon oath.

Major-General Disbrowe. I would have no proportion set, but only 6d. per pound; and Commissioners appointed, either by yourselves or my Lord Protector, who, upon oaths, may inquire and give other persons an oath, to find out the value of this. I durst undertake, in any county of England, with some few joined with me, to know the rates, in a month.

Colonel Holland. If this will do your work, it will be the most acceptable work that ever was done in Parliament. If the people can understand that they are to pay but a fortieth part, they will be glad. If you please, leave it to his Highness to appoint Commissioners.

Colonel Cor. Some have thought that this way would overdo it; others, that it would fall short. To save this, I would have a clause in it, that, be it over or short, it may be employed, if made up, by or for the public use. But I would have a strict way of punishing persons that do forswear themselves; and, I am confident, it may be very practicable.

Mr. West. I am glad to know this to be so practicable. I rise up to second this motion; and that there be not only a pound rate, but for every 20l. in goods the same rate.

Mr. Bacon. I rise up to further this motion; which is the most equal way. There is a little book published of every

tax that has been laid in England, hidage * and the like ; but certainly, this of the pound rate is most equal. I would have a Bill brought in to this purpose. I never knew in any assessments a due proportion upon the counties.

Mr. Bodurda. This is very plausible, but not very practicable. There will be more injustice in this way than in the other. In some counties many let their estates on a rack-rent ; others for lives ; others by old rents. I speak not upon a prudential account, but this is the way to discover every man's estate ; not only his real estate (and the land will bide still), but every man's personal estate will be laid open. I must examine what every alderman is worth ; and the chief magistrate, knowing where the money lies, he and his army may command it. I cannot tell what to offer, seeing you have laid the other motion aside.

Lord Lambert. I doubt this will never be made practicable. You can intrust nobody in this, but such persons as are concerned in it. You must allow Commissioners a salary. This is a very uncertain and dilatory way, and will in no measure answer your ends.

Sir John Hobart. I have heard all ways offered to proportion this tax, and find none so equal as ship-money. That of the 400,000*l.* is most unequal ; as, for instance, Devon, which paid 30,000*l.* of that sum. But I shall lay aside all these ways. You are now about a pound rate, and I have had experience of it myself that it may be done, though it be a great work ; but if by this means you can come to an equality, the people will pay 30,000*l.* more cheerfully than if it were but 1000*l.*, so there be an equality.

Mr. Disbrowe. Here is no wrong or damage to any man in this, because the law imposes it. But all that is feared is, that a man shall do wrong in paying 3*d.* by giving a false value of his lands, when his neighbour pays 6*d.* I believe there has been great wrong in that. These are the failings of men.

I lay not much stress upon that way of an oath, because I

* Or Hide-gild, a tax for every hide of land.

know not the force of an oath before Commissioners, or how a false oath can be punished, unless it be in a court of record. I had rather have a penalty upon the concealers, as in the case of excise and customs. If it do fall short, the making trial of it will do no harm; it is but making it up. As to that of personal estate, is not every man as liable to have his estate looked into as the assessments are now, and it will be no more then?

Mr. Vincent. I move that the other motion in the morning,* may be revived, about laying it, as in 1649, and that must be your first question, if the way of a pound rate were practicable. I hope, before you call your taxes just or equal, you will consider the sufferings of those that have lost half their estates in standing betwixt you and danger.

It was never known that men should be put to swear in their own cases, so that both as to the *modus agendi*, and to the thing itself it is impracticable. It is a new way, I shall say no more of it. It is told you that what is overplus shall go to the next month's assessment. We have lately had experience in the last six months, though grudging nothing that is laid by his Highness and the Parliament.

Sir Christopher Pack. How practicable soever it may be in the country, it is impracticable in the city. We have some that have only trades, and no visible estates; and yet are able to afford something to the Commonwealth.

Colonel Chadwick. This way is utterly impracticable. I would rather that you would return to what it was in 1648. Then there was a full Parliament,† now there is not. It was always the care of our ancestors to keep off such courses.

Mr. Moody. I wonder to see such opposition to the question, which ought properly to be put for sixpence per pound, as was first moved; it being so equal that none can except against it. I humbly move that that may be your question, and that you lay aside all the rest.

Sir Richard Onslow. It were well if this 6*d.* per pound

* See *supra*, p. 227.

† Previous to the interference of the army, December 6th, 1648.

would do your work. Some say it should be double. That would be well for you that pay 2s. per pound. As to that of oaths, I am not so much for them; only I would have the Assessments sworn to. Who know the estates of their neighbours? They need not go to mathematical proportion. If a jury find not above, but under the value, they are safe; for if it be 12*d.* it comprehends 10*d.* As to that of the sufferings of some parts, they have been eased for it; this is an *indivium vagum*. For that of personal estates, the judges used to say every man's estate was visible, &c. My motion is, that it may be at a pound rate.

Captain Baynes. This way is most impossible, unpracticable, and, at the long run, will be most unequal. In several counties, I doubt, there will be great inequality. Gentlemen will labour to keep it down as much as they can; and I doubt, that instead of giving my Lord Protector a substance, we shall give him a shadow. This will come to nothing.

I shall not be against any old rules; but if you go by a new way, I doubt you will lose your Bill. I do not find any abatement for those counties that bore free quarter, or that they are at all considered. I do not find it yet, though I have examined the rates on the north side and the south side of Trent, and on the south side of Thames, and find no such difference as is spoken of. I am not afraid of any rate, come to what rule you will; though the increase and decrease of the buildings and the riches of this City accounts or another——*. Besides, king's, bishops', and dean and chapter lands, are made liable,† which were not before, and some counties have more of these lands than another.

As to this plan of surveying, and searching into men's es-

* Here, evidently, some words are omitted in the MS.

† These lands had been sold by Commissioners under authority of "the Lords and Commons assembled in Parliament." See "Several Acts of the Commons of England, in Parliament assembled, for the abolishing of deans, deaneries, and chapters, canons, prebends, and other offices and titles, of or belonging to any cathedral or collegiate church

tates, it is that which your ancestors would never endure. That the Chief Magistrate should know men's estates, was always avoided. If you appoint strangers to survey, and I should be sorry to be put upon that employment, I have known counties ready to rise in arms, when surveyors were coming into the country.

Colonel Shapcott. I move to have leave to speak against your former vote. All ways that are propounded are very inconvenient and impracticable, and have been tried in other Parliaments, and before Committees, and could never be done.

Mr. Butler. The way of a pound rate may be very easy ; but I would have the proportions set. Otherwise, you know not what to raise, and it will fall to nothing.

Mr. Bampfild. This would give a real ease to the county* for which I serve, and I believe it would not raise half that we are now charged with. Yet I apprehend it to be impracticable. It looks something like the numbering of the people. If you take this course, you wholly lay this Bill aside, which has been twice read, and you have not time to read and debate another Bill.

If you go this way to work, it will raise the greatest earthquake and disturbance that ever was in England. Honest, conscientious men will make a just return ; others less conscientious, cunning knaves, will venture at low rates, because they know this will be a constant standard. I propound this expedient ; that yourself, the chair, appoint five persons ; one for the east, another for the west, another for the south, another for the north, and a fifth for the midland. These five to tax all the nation, except their own counties, and let the House set it upon their counties.

Major-General Boteler. I doubt this will neither be prac-

or chapel within England and Wales. Together with the several ordinances and declarations of the Lords and Commons assembled in Parliament, for the abolishing of archbishops and bishops, within the kingdom of England and dominion of Wales. London, printed, 1649."

* Devon.

licable in the point of time, nor as to the thing. I wish there had been three months' time to debate it. If you appoint strangers to survey, I doubt you will raise greater disturbance than ever was in England. If assessors are appointed to assess their neighbours, there will be great partiality. I think that way of the 400,000*l.* is the most equal; but I would rather move, that for six months' time you continue it at the proportions it is now at. I doubt you have not time now to alter it. You may spend two months in it at next meeting.

I doubt I speak against the orders of the House, and I believe we must all come to that. My motion is, that you give leave to speak against the vote you passed the other day.

Sir William Strickland. I move for leave to speak against the vote.

The way that is propounded looks like a court-project; and though we have no cause to suspect any thing, as there is now a confidence between the Chief Magistrate and the people, we know not what may come next. Our ancestors have always declined such courses. Patience has inured our parts* to bear our sufferings. When you come to ease other counties we shall hope for ease. In the mean time, I would have us continue as we are, in regard of your time, either for six months or for the whole time.

Major-General Disbrowe. I am convinced of the impracticableness of this, which I was so zealous in; and if I had had the least jealousy that it was a court-project, I should have been sorry to have moved it; but in regard, this way will lay your Bill aside that you spent such a debate in, and you have not time now, I move that for six months you continue at the present rates, and take it up after.

Sir John Hobart. The proper question is about a pound rate. I desire that you would put that question.

Mr. Bodurda. My motion was the first question in order.

Mr. West moved, that the question about the pound rate might be put, and that it was the proper question.

* Yorkshire.

Colonel Purefoy. I move to have leave to speak against your vote, and that for six months time you would continue it, at the rate that is set already.

Mr. Bond. I had rather have a double charge upon my county* than give way to such a precedent as to lay a pound rate. I have been a week together at this, in the Long Parliament;† and we could never make it practicable. I should be sorry to trust any Chief Magistrate to understand all men's estates. The Alderman‡ tells you it is impracticable with them. I remember a story, when the Bishop of Canterbury sent for Sir Thomas Soamer, a member that served for the city, and would have him to discover the Aldermen's estates, he would not, and was committed to prison; and this was aggravated as an article against the Bishop of Canterbury.

Alderman Foot. The pound rate is altogether impracticable, especially in the city.

Colonel Sydenham. This is a very specious way, but it is like some Acts, that have more inconvenience in the practice than in the notion. I would not have you put such a disturbance and confusion in the nation as this will do. I would have you continue it as it is for six months, and put in a proviso, that at your next sessions you will take a course better to proportion it. You have not time to do it now.

Sir Gilbert Pickering. I like the way well, by a pound rate; but doubt that in your time you could not do it. I have only one objection against it; the danger of assessors being more favourable and partial in one place than another.

The debate running upon the motion for continuing the assessments as formerly they were, the question was put, and passed in the affirmative.§ A proviso was also passed

* Dorset. He was M. P. for Weymouth.

† He was then M. P. for Dorchester.

‡ Sir. C. Pack, *supra*, p. 232.

§ "Resolved, that the present assessment by this Act, shall be in proportion, according to former rates, notwithstanding the former vote on Wednesday last." *Journals.*

to alter the rates, as the Parliament should henceforth declare.

Colonel Philips moved, that a proviso might be brought in to abate Cardigan, which pays eightpence and tenpence per pound.

Sir Gilbert Pickering seconded that motion, and it was referred to the Grand Committee to consider thereof.

Saturday, June 13, 1657.

Sir William Strickland and *Sir Thomas Wroth* moved, that they were old men, and it was time for them to think of their graves, and settlement of their estates. They therefore moved, that the Bill for the Probate of Wills might be read.

The Master of the Rolls and *Mr. Bond* moved, that the Report might be made now, by *Dr. Clarges*, about the Public Faith.

Mr. Speaker. I must acquaint the House that, at some hands or others, there is a high breach of privilege, by talking what things pass in the House. And, for my part, there is a great reproach upon me. I bear all the blame in the business of the Vintners. They say that, had it not been for me, they should have had time till November next.

Alderman Foot stood up, and vindicated the city from talking any thing. They rather vindicated the Speaker, that he had done all he could.

Captain Baynes. It is fit to have it examined, for it is a high breach of privilege. There is nothing done or said here, but is told abroad.

Mr. Fowell moved, that a committee be appointed to examine this business, and that, whoever be found faulty in it, they may be punished exemplarily.

Mr. Speaker. I only desired to acquaint you with this at present, and that persons would be careful hereafter of the least breach of privilege.

Dr. Clarges reported "from the Committee to whom the debts upon the Public Faith were referred."

Sir William Strickland. The Public Faith of the nation is now become a public despair, and rather than that faith should be violated, I would give a great part of what I have.

A great debate was here upon the fifth and twentieth parts, whether they ought to be included.

Captain Lilburn. I move, that £8,000*l.* lent for the Scotch army by Newcastle and Durham, and 10,000*l.* by Northumberland, in 1641, be comprehended in your provision.

Colonel Castle and *Mr. Godfrey* moved, that those that had security by the 400,000*l.* subsidy, that security being taken away, and arrears of 140,000*l.* discharged by the Act of oblivion, it is but just that, if you will not give them an equivalent security, at least they should have the faith of the nation.

Major-General Disbrowe. This motion is against the orders of the House; and, it relating nothing to the report, you are now to go on with the report to agree with the Committee; and for new motions, they may come in more properly at another time.

The first part of the Report, touching the stating of the accounts of Public Faith, and what debts shall be allowed being passed, the latter part of it was read, as to the way of satisfaction, by sale "of the forest lands,"* and the lands in "the four excepted counties in Ireland."†

Major-General Disbrowe and *Major Aston.* If you sell your forests, you will destroy your navigation.‡ The counties in Ireland may go far beyond the satisfaction. Do not

* See *supra*, p. 78, note †

† The counties of Wicklow, Donegal, Longford, and Leitrim, with the *Myle-Lyne*, within the Shannon and the sea, within the province of Connaught, and county of Clare. In these, the forfeited lands had been set apart, for the satisfaction "of the officers and soldiers who served the Commonwealth in Ireland before the 5th of June, 1649." See *infra*, June 26.

‡ In this Parliament (Sept. 25, 1656) Lord Whitlock had brought in a Bill "for increase and preservation of timber." The Long Parliament had appointed a Committee (Nov. 21, 1651) "to consider how the mischiefs from felling of timber might be prevented." See *Journals*.

engage your security till you know what your debts are. It will not be honourable for you to retract your security.

Colonel Shapcott. I am confident there may be as much discovered of lands purchased by false Bills, as will satisfy all those debts. I know where, for a 1000*l.*, they have got many 1000*l.* a year; and will undertake to discover it.

Mr. Highland. This satisfaction is as empty as was the remainder of the 400,000*l.* offered yesterday. If you intend them a real satisfaction, it must be as propounded. As to the forests, there is not wood upon half or a third of the forests. Those counties in Ireland are not yet disposed of.

As to discoveries, you will hardly make so much of them as is pretended. I have heard that gentleman speak often of that. But this will shake the foundation of all men's estates, that have been sold over and over, and you ought to have discovered those fraudulent estates within a year. When you borrowed this money, you promised that those that lent you money freely, should be paid out of the estates of delinquents, and those that fought against you; out of the estate of the King, that traitor.

Colonel Gorges. You have given the counties in Ireland in security to the poor retired officers and soldiers who have ventured lives and all for you; which is more than the lending a sum of money. Though that way of discoveries be so much slighted, I know it may be considerable. In two months we drew out 300,000*l.* and, in as much time, we, or any you should employ, would get as much more.

Mr. Fowell. There may be great sums made out of fraudulent debentures, upon these discoveries; and though there be a great debt due to me, yet I have no hopes of being satisfied by the ways propounded. You have no other way to make up your revenue, but by improving of the forests and those four counties. As to reserving the timber, who will buy the land, if you reserve the timber?

Major-General Kelsey. These lands are all your refuge upon any occasion or strait. The best way to make up your revenue, is to improve them at a rent. I would have you take some speedier course. This will not be done in seven

years. I am confident the nation will never grudge to pay a tax of six or three months, for satisfaction of this debt.

Major Beake. I hope you will never sell the forests, but reserve them for the revenue, and that they may be improved at good rents, and so in time take off much of your charge. My motion is, that they may have their security transferred upon the four counties in Ireland.

The Lord Deputy. I think that none of the propositions will answer your end. The people to whom now you owe money are poor, and not able to go over into Ireland. The forests must make up the revenue.

Mr. Cary. I incline rather that a tax be laid for this. Nothing lies harder upon me than this business of the poor people that did so freely contribute. It is the most righteous thing that fraudulent debentures should satisfy these, that are true debts; or rather leave it generally that you will take care to give speedy satisfaction.

Captain Baynes. If you have your debts stated, you have done half your work. The way of satisfaction will be easy. But, if you publish it abroad, that you will satisfy them by lands or taxes, you will encourage men to counterfeit debentures. I would have you put a check upon disposing of any of the lands in Ireland, till the public debts be satisfied. Your best way will be to dispose of the forests by sale, reserving a fee farm-rent. There is no care at all now taken of the forests. The wood and deer are destroyed, and the people, so they could but have their inclosures free from deer, would quit all their interest in the forest. Now they fully enjoy and claim the whole. So that, in time, you will have nothing at all. If you should sell them for ready money, it would not give you above two or three years' purchase; but I would have none disposed of, till all debts be stated.

Colonel Sydenham. You are now upon a work that will give you the greatest reputation that ever Parliament had. You are now about to satisfy your best friends, that came out to your help, upon principles of honesty and religion. They are poor, and if you assign lands to them, they must sell again. It may be, that which you give them for 20s. they

may sell for 12*d.* it may be 4*d.*; and people that watch such opportunities, and have money, will prey upon their necessities.

As to the forests, I doubt by the time that all Commoners, claimers, and other rights, be set out, the forests will not yield so much. However, I would have that improved for a public revenue. I wish there were a way of revenue in view, that the people might see how that, in time, they may be eased of taxes. I hope there may be a great revenue made out of the four counties in Ireland. If the poor people see that their hopes are raised out of the dust, it will raise your reputation higher than any thing you can do. I am confident, when your debts appear what they are, no good man will grudge to contribute his share to the satisfaction.

Major-General Goffe. I am sorry to hear that your faith is grown so despicable that poor people, after all this attendance, should take 4*s.* or 5*s.* per pound. I would have you make it your care that no man should sell his debentures under 20*s.* per pound, but would have all fully satisfied. God has much taken away that objection that you are not able. The nation is in a good condition, and we are able to pay. I would have it done by a general tax, after you know how it is stated.

Mr. Butler. I am glad to see that you are about so good a work. It is just that men should be satisfied that have lent you money, and also the poor soldiers that have bled for you. I have been none of those that have gained by the times. I am likely to be no gainer.

Four ways propounded to you.

1. Fraudulent sales. I think it is but just that those that have cheated you should be brought to justice.

2. Lands in Ireland. If you dispose not of them they will be gone, piece after piece, and those persons would people those counties, or the forest lands, any where, where you would assign them. You might reserve a fee-farm rent upon them.

3. The forests, and they would be well content with them.

4. By a tax, I should as freely pay my share as any man ; but some way or other must be taken to let the people see that you are in good earnest to satisfy them.

Colonel Cooper. I see no better way to satisfy this debt than by the way that is propounded. As to fraudulent debentures, it is hard to pay the public debts by public cheats. You did appoint some test to those debentures, and they passed that. Now if, after all this time, you come to discoveries of that kind, you will bring a flaw upon every man's estate. Those that sold the debentures are now turned informers, and those that would cheat one way may cheat another way, and then they may inform against all debentures, and cast a disgrace upon them all.

I cannot say what reputation a tax will have abroad, having now a tax upon them already. I doubt this would savour ill. I would have you put the question to agree with the Committee ; and the House by this time are so possessed of the debate, that they know how to give their vote.

There are delinquents' estates unsold to 200,000*l.*, and under the notion of giving small sums, I fear me they will slip away from you insensibly. Here is one Bill for the Earl of Derby, which will give away that from you, that for mending three words in one Act, will yield you 10,000*l.*, to be paid in six days.

Colonel Jones. I move to re-commit this report. Those people before you are of the poorer sort, and lands will not satisfy their needs. It will be a long time before you can put the forests into a way of sale. Besides, those lands and the lands in Ireland, are not in that condition as to be sold at any considerable rate. You will be puzzled to make up your revenue ; and if it be laid in the balance, whether you will continue a tax to perpetuity for the revenue, or raise a present tax to pay those debts, the latter will be taken. I would have your Committee consider how a way may be found for ready money, to pay the poorer sort ; and for the richer it is not just to propound a satisfaction till you understand your debt. That is not natural ; and where wit and wickedness

meet together, it will be a great temptation to counterfeit Bills.

Colonel Sankey. You will do no good by re-committing this. I think it is well propounded to you to sell the forest lands, reserving a rent, which will answer your end, as to making up your revenue. I know no reason but you should revive the motion of the other day of that 200,000*l.* if so much remain out of the new buildings over and above 200,000*l.* to make up the 400,000*l.*

Captain Hatsel. I move to re-commit it. I would not have those lands sold at this time. You cannot sell them at any rates, so as to give suitable satisfaction to those poor people. Those that live in the west, what shall they do with lands in Ireland, or in those forests? A land-tax will not be so pleasing at this time to raise this money.

Dr. Clarges. I move to agree with the Committee as to the last part, that the lands shall not be disposed of till this debt be satisfied.

Colonel Matthews. I move strongly to agree with the Committee, that the poor people may have a real satisfaction.

Mr. Waller. I have as much commiseration for those people as those that have expressed it with the greatest resentment; but I doubt that what was propounded will not do your work. As to the forests, I wonder men should forget that there is a Chief Magistrate, who must have a revenue. If we dispose of this, that must raise it, we shall entail a tax upon the people that posterity will not be able to cut off. As to reserving the timber, it is a strange proceeding for me to sell a wood, and reserve the timber. You will have but few chapmen. As to sending them amongst the wild beasts and birds in Ireland for satisfaction, it is but to add misery to affliction. Besides, you have debts in Ireland to which lands there are most properly applicable.

Major-General Whalley. I move to re-commit this Report, that a speedy way may be propounded for satisfaction after the debts shall be stated; and that a declaration may be published to this purpose. But, indeed, for you to pro-

pound a security before you know what is your debt, is most unnatural.

Mr. Bampffield. The generality of the honest, good men of the nation are concerned in this. For my part, I should freely agree with the Committee that those lands be disposed of. But if this relish not, I shall move that the votes already passed, in order to this, be put into a Bill; for the stating of the debt, and calling officers to account.

Mr. Bond seconded that motion.

Mr. Godfrey. This is short of satisfaction, and will but put people to a greater loss than before, unless you propound also a way of satisfaction; that at least a stop may be made to the disposition of the lands, until this debt be satisfied.

Colonel Matthews seconded this motion.

The question being put for sale of the lands,* it passed in the negative.

Major-General Disbrowe. I move, that they shall not be disposed of by sale or gift, until those debts be satisfied; otherwise you exclude all disposition to improvement.

Mr. Pedley and *Mr. Godfrey.* If you put it, that these lands shall not be disposed of till these debts be satisfied, you exclude all satisfaction by those lands. These words should be added to the question—"by the sale of those lands or otherwise."

These words being excepted against, these words were added—"until some provision be made for satisfaction, &c.;" and the question thus penned passed.†

Resolved, that it be referred back to the same Committee to prepare and bring in a Bill to these purposes. Divers persons of the long robe were added; as *Mr. Pedley*, *Crooke*, *Bampffield*, and *Carter*.‡

* "That all the forest-lands in England and Wales, not yet disposed of, and all the lands within the four counties, not yet disposed of, be put into a speedy way of sale, for satisfaction of the Public Faith debts." *Journals.*

† "Resolved, that no further disposition, by sale or gift of the forest-lands, &c. be made, until some provision be made for satisfaction of the said debt of the Public Faith." *Ibid.*

‡ "And *Fowell*, *Cary*, *Colonel Matthews*." *Ibid.*

Resolved, that this Bill be brought in on Wednesday next.

The Lord Deputy. The consideration of the business of Ireland was appointed this day. I would have you take it up now.

General Montagu seconded that motion, and that it might be taken up the first business in the afternoon.

Mr. Pedley. I move to revive an Act that is expired, touching prisoners and creditors, for twelve months. So prevent the clamours upon you, and dispatch that business.

Mr. Bond and *Mr. Godfrey* moved, not to continue these Acts unheard. No man can charge his memory with what was done in the Long Parliament.

Colonel Sydenham. This argument reaches through all the Ordinances and Acts that you have confirmed. I suppose you have not read those, here, no more than this. It is but for a short time that you are moved to confirm it. I would have you put the question.

Major-General Disbrowe seconded that motion, and it was resolved accordingly.*

The Lord Deputy. To retrench your charge in Ireland is the way to plant it, and the way to make it yield you better hopes. It was moved that the assessments might be brought down to 7000*l.*; but, to prevent dispute, I desire you would put it at 8000*l. per mensem.*

Colonel Jones. To husband your time, I move that you would put this off your hands, now that you have entered into debate of it; that you may go on to your business.

Sir William Strickland. A grain is a great load for a weak person. We ought to deal tenderly with those that are but just in the bud. Other nations never used to discontent new plantations.

* "That an Act made December 21, 1649, intituled An Act for discharging from imprisonment poor prisoners, unable to satisfy their creditors; and also an Act made April 6, 1650, intituled An additional Act for the further ease and relief of poor prisoners, be inserted into the Bill for confirmation of Acts and Ordinances, to be revived and continued in force for twelve months, from June 24, 1657, as to such persons that are or shall be in prison within that time." *Journals.*

Mr. Highland. I move that you agree with that motion.

Mr. Bond. If you will make England Issacher's ass, we shall break down at last. The Long Parliament thought fit to lay 80,000*l.* *per mensem*. Then they would not plant. We give them 64,000*l.* in this. When we come to touch upon any of their lands, as to-day about the Public Faith, there is a *noli me tangere* presently. Here are such arguments in and out, by the adventurers and soldiers for Ireland. I never saw Ireland.

Colonel Cooper. If that gentleman had ever been in Ireland, he would have been of another opinion. He talks of burdening England; but I hope, to do justice will never burden England. It was thought that 12*d.* per pound was enough for England, and we* pay 6*s.* and 6*s.* 8*d.* per pound.

Major-General Haines. I second that motion, that 2000*l.* *per mensem* may be abated, and that it be made 8000*l.* per month.

The question being put in the affirmative,

Mr. West. I should be as ready to gratify the honourable person that moved this as any man, for the most unparalleled acts of his; but I beseech you consider what you are going to do; to give away 64,000*l.* at one vote. This is considerable. You laid the tax in a full House, upon a full debate. I desire you would put it off till Monday morning, and then resume this debate. Many counties that are burdened have appealed to you, and cannot be relieved. I hear no new arguments, more than what was urged at the former debate.

Mr. Goodwin. I speak to your question. I would have you consider where this must lie. It will be upon England. Ireland is in a rising condition, and improves every day. I would not have you to abate any thing.

Mr. Heylinge. I am informed that Ireland improves every day; that which was 20*l.* *per annum* last year, is now 50*l.* My motion is, that the first year they may pay 8000*l.*, the second year 9000*l.*, and 10,000*l.* the last year.

* In Ireland. He was M. P. for Down, Antrim, and Armagh.

Colonel Stewart. I move that for prudence sake, and for the sake of the person that moved it, you would abate 2000*l.*

Colonel Cooper. The gentlemen were mistaken that informed you of the growth of Ireland.

He called it an oppression, nobody took notice.

The question being put, the *Yeas* went forth.

Yeas 45. The Lord Deputy and Colonel Jones,* Tellers.

Noes 50. Mr. Fowell and Lord Tweedale, Tellers.

Major-General Whalley. I move that you would abate 1000*l.* I confess I could not abate 2000*l.* and satisfy my conscience. The question was put to abate 1000*l.*, and passed in the affirmative.†

Mr. Butler declared for the *Noes*; but General Disbrowe interposing with another motion, it was declared too late.

Mr. Pury. Now you have taken 1000*l.* from Ireland, I move that you would abate Scotland 500*l.* *per mensem.*

Sir William Strickland seconded that motion.

But the House was weary, and it was moved that this was a new motion, and it was past one.‡ So the debate was waived; and it was "Resolved, that the proportion of England, for the assessment for three years, be 35,000*l.* by the month."§

Mr. Secretary moved, that you would appoint a day to receive the report from your Committee for inspecting the Treasury.||

Monday next was appointed for it, accordingly, the first business. Also, at 10 o'clock, the Grand Committee for the Assessments.

* "General Montagu." *Journals.*

† "Resolved, that 1000*l.* by the month, of the 10,000*l.* by the month, upon Ireland, for three years, be abated." *Ibid.*

‡ See vol. i. p. 36, note. Yet *Hakewel* says, "the Parliament ought every day to begin at one of the clock in the afternoon;" and, again, "the Parliament ought to begin at one of the clock, because of Divine Service." *Modus tenendi Parliamentum*, (1660,) p. 22.

§ *Journals.*

|| "Touching the 1,300,000*l.* by the year. *Ibid.*

Monday, June 15, 1657.

Mr. Cary reported, from the Committee appointed to methodize the Petition and Advice, an Act for Confirmation of several Acts and Ordinances,* which was read the first time.

Colonel Shapcott. I move that it be read the second time to-morrow morning; in regard it must be done before you rise.

Ordered.

Mr. Secretary. I move that the explanatory Petition and Advice be now proceeded upon; in regard that must also be dispatched before you rise.

The same was read the second time accordingly.

Dr. Clarges. Therein is nothing but what you have already agreed upon in full debate; I therefore move for sparing your time, that it may be ingrossed.

Colonel Shapcott and *Sir Christopher Pack* seconded that motion.

Major Morgan and *Alderman Tigh* moved, that Ulster and Munster might be added,† for it is very narrow not to let it extend to the protestants elsewhere, as those in Munster.

Colonel Jones. Those protestants in Munster least deserve your favour of anybody, for they were enemies; and why should it light upon others more than upon those that have served you?

Colonel Sankey. You have as much reason to take in Connaught as Munster, who have deserted from you most of any.

Colonel Chadwick. I stand up to move you, that your favour may not be narrower to the other counties than to Munster, which, it seems, has least served you.

Colonel Trayle moved for Ulster to be added.

Mr. Secretary. This was done upon good consideration at the Committee. It was thought too general to take all protestants in; but you may use it as you please.

* "Made since the 20th of April, 1653." *Journals.*

† To the provisions, on the Protestants of Ireland in "the humble, additional, and explanatory Petition and Advice." See *Journals.*

Colonel Cooper and *Major Morgan* moved, either to exclude or to comprehend all, and leave them for the greatest of signal testimonies.* If you exclude Leinster, you do exclude your real and best friends, that were only passive under Lord Ormond,† in the time of Cess,‡ and it does exclude Dublin and all those that have served you.

Major-General Whalley. Those that came in, in 1649, there are no thanks due to them for they could not help it. If you please, exclude all but such as have given signal testimonies, &c.

Colonel Sankey. Unless you make some explanation, what shall be meant by signal testimonies, you may still exclude your best friends.

Mr. Lloyd. Leave out the whole clause and provide for this in the Bill for settling the distribution of members.

Resolved, that this clause be re-committed, and the Committee appointed and ordered to withdraw.§

Major-General Goffe. I move that the clause for Scotland be re-committed, for it is short by saying, "invading Scotland," unless you say aided, assisted, or abetted.

Colonel Shapcott. This was moved at the Committee, and it was found, that if it were so general, it would exclude all Scotland.

Colonel Cooper. Unless you make your clause more general, you will not exclude ten persons. There were many godly men in arms against that invasion. Most of those that were actually in the invasion are either dead, killed, banished, or imprisoned.

Colonel Sydenham. You have been truly told that the worst enemies you have in Scotland will be brought into places of trust. You take the lands of those that now keep

* See *supra*, p. 176, note †.

† Lord Lieutenant, appointed by Charles in 1644, "upon the cessation in Ireland." See *Clarendon*, ii. 456.

‡ "Cesse, or Casse, (*Irish* law term), an exacting of provisions, at a certain rate, for the Deputy's family, and the garrison soldiers." *Dict. Anglo-Brit.* (1715).

§ "Presently; and to bring it in, setting the House." *Journals.*

them out of trust, and let all in. You hinder the work of reformation; if, for any person's sake, you should let in a general evil. If you admit both these nations, what shall become of England?

Mr. Fowell. This was all said at the Committee, and it appeared that all will be excluded that now serve you in Parliament.

Major-General Disbrowe. If that clause be put in, it will exclude all that are fit to serve you, unless it be some ministers. I can evidence it to you. I would leave it to any man, whether, in a strict consideration, all persons have not aided or assisted by horse, arms, or monies. You are misinformed that there were any protestations in that Parliament. Indeed there was one gentleman that sits by me, (Sir John Wemyss or Colonel Lockyer) that did dissent, and divers others, but none protested. I would have you, to save long stories, add it thus: "such as have counselled, or advised, or willingly and voluntarily contributed."

Major-General Kelsey. You cannot make that too large. I had rather have twenty honest men excluded than admit all knaves.

Dr. Clarges. I move that the clause may stand as it does; for if you make it so general you will exclude all. There was no such thing as a protestation. The dissention between Argyle and Hamilton's faction was the cause of all, and it was more to support Argyle's lust and ambition than out of any godliness. The condition of Scotland is now between those of the public resolution and the remonstrators. It is not your interest to give a greater encouragement to one than to another, though both contend for the most godliness. Argyle is a crafty man.

Major-General Haines. The generality of the malignants came sooner over to you that they might oppress the rest. I doubt it will prove so upon examination. I am not for a general exclusion, but for the expedient that is offered.

Colonel Lockyer. The general clause will take in all the people. There was not a gentleman in Scotland but did

contribute. The matter of fact is mistaken. Every person that did not contribute was liable for the old troops to take all he had. Before 1648, Scotland was independent of any. For my part, I speak more freely because I am not concerned. This will exclude many godly men from public trust, and it will disaffect and disturb the Government; whereas they are in a way of compliance. It will not be for your service if you exclude all that sat in that Parliament, or in the council of war, or the like.

Colonel Stewart. You ought to sweeten that nation as much as you can, so you do not admit your enemies. You have admitted them to union, and to sit in Parliament; and if you give a privilege with one hand, and take it away with another, it will discourage that people. Though we may now take the liberty to call it a faction upon the dissention between the parties, yet all were concluded by the vote of Parliament.

Sir John MacDowell. To put a character upon one part of that nation more than another will not be for your service. If you please, exclude all that treated with Charles Stewart, to bring him over, or to assist him at Worcester. I would have it re-committed, to pen it more restrictively.

Sir Christopher Pack. I move not to give a greater privilege to Scotland than you do to yourselves; viz. aiding, assisting, or abetting. A greater latitude, as it may trouble Scotland, so it may trouble England.

Judge Smith. I move for some restriction and limitation, and that the words, Signal Testimonies, may, in some measure, have your sense; otherwise, I doubt it will return as it came in.

This clause was also committed to the same Committee.

Mr. Secretary moved the Bill for setting a fine upon unqualified officers and members of Parliament, till the other report was ready. The same was read accordingly the second time.

Mr. Alderman Foot moved, that the Bill for adventures for lands in Ireland might be read.

Mr. Godfrey moved, that a clause might be added to this

explanatory Petition and Advice, touching the time of continuation of future Parliaments, and that triennial Parliaments might continue six months, and intermediate Parliaments three months.

Sir Christopher Pack and *Sir Thomas Wroth* seconded that motion, and moved that the first triennial Parliament might be called three years next after the dissolution of this Parliament.

Mr. Fowell and *The Master of the Rolls*. It is not advisable at this time to enter upon such a debate.

1. It is not properly before you, being no part of his Highness's exceptions.

2. It is not good now to break in upon the Petition and Advice, further than to explain the votes.

3. There are matters of as great consequence as that, left unprovided for, and that upon which all the war arose. All may be considered in season.

4. Wise men thought that long Parliaments might be as prejudicial to the people as short Parliaments.

5. By the Petition and Advice his Highness has consented to govern, and to call Parliaments according to the laws.

6. By the laws Parliaments ought to be called twice a-year. No repeal known of that law.

7. The triennial Bill provides for fifty days for every Parliament, and many wise men then thought that it was time long enough.

8. It should not be in the Chief Magistrate's power to continue Parliaments so long as he pleases.

Upon these and other considerations the debate fell, and Mr. Speaker had no mind to it.

Colonel Clarke reported the clause, touching excluding the members for Ireland, which was re-committed; and upon the question, resolved to agree with the Committee.

Colonel Sydenham reported the clause concerning the members for Scotland.*

* "Touching the excluding of persons of Scotland." *Journals*.

Lord Lambert offered an addition in the same clause to exclude all such also from public trust.

The House was sick of the addition, and arguments urged, for fear of breaking in upon the whole petition. Some would thus have shaken it off.

Lord Lambert defended it four or five times by standing up, and, upon the dividing the House, carried 50 to 42. See the *Journal inde*.*

The whole so amended was ordered to be ingrossed.

Mr. Secretary. I move two things, which will much further the service of the House in this strait of time.

1. That you exclude all private business for this week.

2. To sit forenoon and afternoon.

This was ordered accordingly,† only several private businesses upon several motions, as Sir William Dick's,‡ and the like, were ordered also to dispatch.

The House rose at half an hour past one, and adjourned till three, upon the Bill of Assessments.

Post Meridiem.

Major-General Whalley. I move that the Committee for the Bill of Indemnity be renewed, that has been neglected, and is postponed *sine die*. I desire the Committee may be revived to meet to-morrow morning at seven.

It was resolved accordingly.§

Alderman Geldart and *Mr. Vincent* moved for a day for the Bill for the Probate of Wills, that it might be read, and a day appointed.

Colonel Jones and others. It is better to let it be without a day, lest it be put by.

* This account of the division agrees with the printed *Journals*.

† See *Journals*.

‡ "Ordered, that the distressed condition of Sir William Dick's children and creditors be referred to Colonel Shapcott, &c. to offer to the House some expedient for some relief to them, until the Parliament meet again." *Ibid*.

§ See *Journals*.

Sir Richard Lucy moved, that it might be read on Friday, for that the term would end on Wednesday; and that it was fit that the judges and lawyers should be here in a matter of that nature.

It was resolved to be read on Thursday morning next.*

Colonel Jones. To shorten your time, I move that you pass a vote, that the Grand Committee for Assessments have power to relate to former acts, both as to committees and powers.

It was resolved accordingly.

Mr. Grove. I move that you add some commissioners for Wiltshire, and that was also resolved.†

Mr. Speaker left the chair, and a great debate who should take the chair; whether Mr. Bampffield, Mr. Fowell, or Mr. Nathaniel Bacon. The last was most called on. Before they could come to any resolution, Mr. Speaker was called to the chair again, and Mr. Bacon called there. Mr. Speaker left the chair; Mr. Bacon, to the chair.‡

Colonel Jones moved, and it was resolved, to refer it to a sub-committee to shorten the Bill, as to the powers and committees.

Captain Baynes. I move that you will consider where to lay that part of the assessments which you take of Cardigan and Pembroke, and how you will provide for the charge of levying it, that it come in a clear revenue to his Highness.

Mr. Bampffield. Such a motion never was in any tax laid upon the people that the Chief Magistrate, ——§ but the same was always levied and brought in, by way of the Exchequer.

The Act was referred to a Committee to shorten the same, viz. to Mr. Burton and others to withdraw presently, and to proportion the sums.

* "The third time." *Journals.*

† See *Journals.*

‡ "Resolved, that Mr Nathaniel Bacon do take the chair in the Grand Committee for the Bill of Assessments." *Ibid.*

§ An omission in the MS. ; probably,—should receive it directly.

Tuesday, June 16, 1657.

Mr. Fowell reported amendments to the Bill for Excise, which were passed in gross, and ordered to be ingrossed.

Mr. Bampffield reported from the Committee for inspecting the Revenue,* and how it will fall 400,000*l.* short of the 1,300,000*l.* *quare infra.*

Post Meridiem.

Mr. Speaker left the chair and went home, and the House was resolved into a Grand Committee† upon the Bill for the Customs, and sat till night. We were all the afternoon in the Speaker's chamber upon the Bill of Indemnity, and dispatched it: *Mr. Burton* in the chair. *Colonel Sydenham* came and moved for a clause of indemnity for the college, seeing the proud men sought it.

Wednesday, June 17, 1657.

Mr. Nathaniel Bacon reported from the Grand Committee for the assessments, several amendments, which were read and passed.

Mr. Godfrey offered a proviso, that no soldiers should quarter upon men for non-payment.‡ It was not fit for Parliament to grant such a power.

I fell very sick, and came away, and left them tugging upon that debate.

Post Meridiem.§

Captain Baynes reported from the Grand Committee, to whom the Bill for the Customs was referred.

* "The treasuries of England, Scotland, and Ireland." *Journals.*

† "Captain Baynes took the chair." *Ibid.*

‡ Not "to raise or levy the said tax, &c. by free quarter, or quartering of soldiers." *Ibid.*

§ Here is a blank in MS. till June 19, which is here filled up from the *Journals.*

Resolved, that the House doth agree with the Committee, that the proportion of the custom for the Scottish coals shall be 4s. the ton upon natives, and 8s. on foreigners.

A Bill being tendered concerning colouring of aliens' goods, &c.

The question being put that the same shall be now read,
The House was divided. The *Yeas* went forth.

Yeas 42. Lord Whitlock and Alderman Foot, Tellers.

Noes 46. Sir Thomas Honywood and Mr. Secretary, Tellers.

So it passed in the negative.

Thursday, June 18, 1657.

Ordered, that the report of amendments to the Bill for recovery of small debts, and relieving persons in cases of small trespasses, within their respective counties, be made the second Thursday after the next meeting of the Parliament.

Resolved by the Parliament, that it be offered to his Highness the Lord Protector; that his Highness will be pleased to issue his warrant under the Privy Seal, authorising and requiring the Commissioners of his Highness's Treasury, out of such monies as shall come into the receipt of his Highness's Exchequer, by monies arising by prize-goods, next after the sum of 4000*l.* formerly ordered to be paid to Colonel Ralph Welden, to pay to Colonel Alexander Blake, for the use of General Robert Blake, the sum of 3815*l.* 16*s.*, appearing by a debenture, under the hands of the Commissioners of Accounts, sitting at Worcester House, to be due unto the said General Robert Blake, for his personal pay, for his land-service in England, and in satisfaction and discharge of the said sum of 3815*l.* and the debenture for the same.

Ordered, that all prosecution at law against Algernon, Earl

of Northumberland, Thomas Lord Coventry, Philip Earl of Pembroke, heirs; and William Earl of Salisbury, and others, the executors of Philip Earl of Pembroke, and Montgomery, deceased, and the rest of the obligers in the bonds, which were given to Mr. Flyer, and others, mentioned in their petition exhibited to the Parliament the 30th of April, and now referred to the Committee, be stayed until the second Friday after the next meeting of the Parliament, and that then this business be taken into consideration.

Post Meridiem.

A Bill for discovering, convicting, and suppressing of Popish Recusants, was this day read the third time.

Resolved, that the blank in the Bill, for the time for the person accused of Popish recusancy, to make it appear that he hath frequented public congregations allowed of in these nations, be filled up with "six months."

Ordered, that this Bill be tendered to his Highness the Lord Protector, for his consent.

Friday, June 19, 1657.

I was very sick all the forenoon, and had three messengers at my chamber-door to come away to the House with the report upon the Bill of Indemnity. I was not in condition to stir; and knowing the night before that it would be my ill day, I left the papers with Mr. Vincent, and engaged Colonel Shapcott to report for me, which was done accordingly.*

Colonel Shapcott reported amendments to the Bill for punishing such persons as live at high rates and have no visible estates, profession, or calling, to maintain the same; which were twice read, and, upon the question, agreed to.

Resolved, that this Bill, thus amended, be ingrossed.

Colonel Shapcott reported amendments to the Bill of In-

* The remainder of this forenoon is here supplied from the *Journals*.

demnity, which were twice read and agreed ; and the Bill, so amended, ordered to be ingrossed.

A Bill, intituled an Act for the preventing of the multiplicity of Buildings in and about the suburbs of London, and within ten miles thereof, was this day read the third time.

Post Meridiem.

The ingrossed Bill for the new buildings was read, and a great many provisos were tendered, and a long debate upon every one. The House seeing so many of them,* almost in every member's hand, were forced to pass this overnight vote. That no more provisos should be admitted, other than those that were that night delivered in to the clerk. After a large debate upon some of them till nine o'clock, the debate and the House were adjourned till to-morrow morning.

Saturday, June 20, 1657.

Mr. Speaker. Browne, a prisoner, is at your door. I desire to know if you will call him in.

The question was put to call him in.

Mr. Speaker declared for the *Yeas* ; nobody excepted. The man was gone to the door and the bar laid down ; yet the mace was called back again, and the House went on with other business without any question : an express breach of the orders.†

The debate upon the Bill for preventing multiplicity of Buildings was resumed.

* One of these provisos was to secure "the erecting and finishing certain houses and new buildings on three sides of the fields called Lincoln's-Inn-Fields ; and for the conveying and opening the rest and residue of the said fields unto the Society of Lincoln's Inn ; and for laying of the same into walks for common use and benefit ; whereby the great annoyances which formerly have been to the said fields, will be taken away, and passengers there, for the future, better secured." *Journals.*

† The whole of this is omitted in the *Journals.*

The proviso for Sir John Barkstead* was read the first and second time, and passed without any debate.

Several other provisos were offered ; some passed and some were rejected. Other provisos were offered, but a vote was passed last night to exclude all provisos, other than were admitted then.

The debate held till one, and the provisos and the Bill being put, the question passed, &c.†

Mr. Speaker acquainted the House that he had received a letter from his Highness, and it was read.

“ To the Speaker of our Parliament : ”

It proposed that the adjournment might be deferred until Wednesday next, in regard he perceived, notwithstanding our unwearied pains, that some business cannot stay till our next meeting.

Colonel Jones and *Mr. Secretary*. You should in this time, apply yourselves to public business ; to wit, that of assessments, and in relation to the Petition and Advice. All the members should be enjoined, in the mean time, to attend, under a penalty.

Some moved for 20*l.* ; others 40*l.*, 50*l.*, or 100*l.* Some moved that no penalty might be set : if any went obstinately away, they should have 500*l.* penalty.

Lord Whitlock. Penalties have been very frequent, as in the Long Parliament ; sometimes 40*l.*, sometimes 20*l.* ; and it is no dishonour to you. I doubt, unless you put a penalty, you will hardly have so full a House as the necessity of the

* “ Who did, in the year of our Lord God, 1647, purchase of the trustees for sale of Bishop’s lands, the reversion of one messuage, with the appurtenances, situate in Shoe Lane, called Bangor House.” This proviso was to enable him, on paying “ one year’s value, at an improved value and full rent,” to the Lord Protector, “ to erect and new build such messuages, tenements, and houses thereupon, as he shall think fit ; the said place being, at present, both dangerous and noisome to the passengers and inhabitants near adjoining.” *Journals*.

† “ Resolved, that this Bill be tendered to his Highness the Lord Protector, for his consent.” *Journals*.

business requires. I am sorry to see the neglect of some members in being so long from their trust.

Mr. Fowell. I move that no penalty be set, but rather that the House be called over on Wednesday morning, and those that are absent pay such a penalty: if you please, 500*l.*

Sir Thomas Wroth. I have attended constantly, ever since the Parliament sat, but have appointed urgent occasions to go out of town; so desire leave to go on Wednesday.

The Lord Deputy and *Colonel Jones* seconded the motion, that Sir Thomas Wroth might have leave; but would have the question first put, that all the members should attend till Thursday.

Mr. Highland. It is hard that a penalty should be laid upon us that have attended, and those that have been absent go free.

There was a great calling for the question, and a noise, which made Mr. Highland sit down. He said, if ever there was a Dover Court it is here.

Resolved, that the members do attend till Friday morning, under the penalty of 50*l.*

Mr. Bampffield, *Major-General Whalley*, and *Mr. Vincent* moved, that the Bill for the Sabbath might be read as soon as the business of monies and settlement is over.

Sir William Strickland. I move that, to the end that for the Sabbath and other good Bills may all pass, as well as that of monies and settlement, you would sit forenoon and afternoon.

Mr. Speaker. Add to the question, that, after that for monies and settlement, all ingrossed Bills may be read; and it was resolved accordingly.

The question being put, that the House do sit this afternoon,

Mr. Speaker declared for the *Noes*. *Major-General Whalley* for the *Yeas*.

The *Noes* went forth (because it was an order of the House to sit afternoons all this week), otherwise not.

Noes 36. *Mr. Pedley* and *Colonel Fox*, Tellers.

Yeas 62. *Mr. Vincent* and *Mr. Aldworth*, Tellers.

Sir William Strickland. I move that, in regard this afternoon is not appointed for your business of monies and settlement, the Bill for the Lord's Day may be read.

Colonel Harvey seconded, and others pressed it.

Providentially, it was resolved;* and the House adjourned till four o'clock.

Post Meridiem.

Sir William Strickland moved, that *Sir William Dicks's* Report might be made.

Colonel Gorges stood up, and reported accordingly. Every article thereof was agreed.†

Mr. Bacon stood up, and pressed to make *Lady Worcester's* Report.

Major-General Kelsey, the Master of the Rolls, Sir William Strickland, and Major Burton cried him down to the orders of the House, and moved, that the ingrossed Bill for the Lord's Day might be read; and the same was read accordingly.

It was moved, to alter the time of prosecution from six months to one month; which was done accordingly at the table.‡

Sir William Strickland moved, to repeal all other laws but this, in order to this business, and would have such a clause.

Mr. Grove. Such a clause was brought in in the Report, and, upon a solemn debate, was laid aside.

Colonel Holland. We have but too many penal laws, and one hundred clauses of that kind may well be repealed.

* "That the ingrossed Bill for the Sabbath be read this afternoon, the first business." *Journals.*

† "Resolved, that the Report in this business be made the second Tuesday in the next meeting of the Parliament." *Journals.*

‡ "Some exceptions being taken, that the time limited for convicting an offender is within six months,

"And the question being put, that these words, 'six months,' do stand in that place,

"It passed in the negative.

"Resolved, that these words, 'one month,' be inserted in this place." *Journals.*

These laws are always turned upon the most godly. This is very strict, as to that of unnecessary walking * and coming into men's houses. The last Bill for the Lord's Day, I remember, was passed on a Saturday, and carried on with great zeal.†. Then I told them they had tied men from coming to church by water or coach. Next day, I, coming to Somerset House to sermon, had my boat and waterman laid hold on for the penalty.

I heard you, the other day, deliver a doctrine, that a man might speak to any part of an ingrossed Bill to be amended. I have known it once, and a Bill cut in pieces at the table to be amended. The Bill cannot be amended; so I would have it laid aside.

Mr. Downing stood up, and answered him to the full (as was easy), and laid some contradictions upon him; and said,

* In "a code of laws, made in the dominion of Newhaven, at its first settlement," in 1637, by emigrants from England, are the following prohibitions, under severe penalties:—

"No one shall run on the sabbath day, or walk in his garden, or elsewhere, except reverently to and from meeting.

"No one shall travel, cook victuals, make beds, sweep house, cut hair, or shave, on the sabbath day.

"No woman shall kiss her child, on the sabbath or fasting day."

These more than judaizing Christians seem to have forgotten the divine declaration, "I will have mercy, and not sacrifice;" for in the same code it is enacted, that "no food or lodging shall be afforded to a Quaker, Adamite, or other heretic;" and that, "if any person turns Quaker he shall be banished, and not suffered to return, upon pain of death." See an account of the *Blue Laws* of Connecticut, *Monthly Review* (1782), lxi. 256; *Monthly Repository* (1807), ii. 481.

† In April, 1650, an Act passed "for inflicting certain penalties for breach of the Lord's Day, and other solemn days." It was enacted, "That goods cried, or put to sale on the Lord's Day, or days of public humiliation or thanksgiving, should be seized. Travellers, waggoners, &c. not observing those days, to forfeit 10s. Any writ, warrant, &c. executed on those days, to be of no effect; and the person offending to forfeit 5l. No person to use, or travel with, boat, horse, coach, or sedan, except to church, upon pain of 10s. The like penalty for being in a tavern, ale-house, &c. dancing or profanely singing, on any of those days. Where distress could not be found sufficient to satisfy the respective penalties, the offender to sit in the stocks six hours." *Parl. Hist.* xix. 257, 258.

if he had prescribed amendments, you might have received them.

Lord Chief-Justice Glynn. I move against the clause for entering into men's houses.* It may be a snare to all the nation; and knaves, in the night-time, may enter and rob men's houses under this pretence. When an Act of Parliament gives a liberty of entry, then a man may break open doors.

Mr. Grove. The constable's voice is well known, and no man can be robbed under that pretence.

Mr. Godfrey moved a proviso, to limit the officers' entry only to taverns, inns, ale-houses, tobacco-shops, victualling-houses, or tippling-houses; wherewith the Lord Chief-Justice was satisfied.†

Mr. Vincent and *Colonel Chadwick* were not satisfied with the proviso. It was too short; for, now a-days, the greatest disorders were in private houses, by sending thither for drink: drinking in ale-houses being both more penal and suspicious.

Sir Christopher Pack. I move that cooks' houses be comprehended, they being (in this city) accounted another thing from victualling-houses, which have licenses.

One gentleman speaking low, Mr. Speaker was called to report.

The Master of the Rolls. Mr. Speaker is not bound, in such cases, to report. Every man is bound to speak so high as others may hear; and every man is also bound to attend to what is said.

Mr. Speaker said he was glad to hear that information; for gentlemen would talk so loudly to one another that they could not hear another speak, and then called to him to report.

Lord Whitlock. I am against all liberty of this kind, to enter men's houses. The law has been always tender of men's houses. I would not have the people of England enslaved. I know not what the consequence may be. I would have these words added, "or demand entry."

The question being put upon those words, the House was divided.

* By "any constable or officer." *Journals.*

† This proviso was passed. See *Journals.*

Mr. Speaker declared for the *Yeas*. *Mr. Nathaniel Bacon* for the *Noes*. The *Yeas* went out (because it was all new).

Yeas 53. Colonel Holland and *Mr. Margetts*, Tellers.

Noes 30. *Mr. Nathaniel Bacon* and *Mr. Puller*, Tellers.

So it passed in the affirmative.

Mr. Bond. I would leave out the whole clause. Sir Edward Hales was robbed of 8000*l.* in White-friars, on the Lord's Day, upon pretence of a warrant from the Council to search.

Mr. Grove. If you admit this proviso, you give liberty to private houses to be as profane as they please. I hope you intend zealously for God in this thing. You give liberty of entry for every petty felony which concerns man. Why should you not be as zealous for God and his day?

Yet the proviso was resolved to be part of the Bill.

Mr. West. I except against the words in the Bill, "idle sitting, openly, at gates or doors, or elsewhere;" and "walking in church-yards, &c." Let a man be in what posture he will, your penalty finds him.

Lord Whitlock was against these words, and said——*

Mr. Godfrey. I move to leave out the words "profane and idle sitting;" for this joins issue between the officer and the party, and puts a plea in the party's mouth which is not triable. He will say, he is talking or meditating about good things. I would have the word "elsewhere" left out, for I know not how far this may reach.

Mr. Fowell. I move to leave out the whole clause.

Major-General Whalley. God requires not these things of us. We must take heed to adding to the commandment of God. If you put this clause, you deprive men of the very livelihood they have by the air; as at Nottingham, many people that have houses in the rock, and have no air, live most part of their time without doors.

Mr. Bodurda. This clause is too short of what is intended by those that would have it. Some persons have not conveniency to sit at doors; so I would have you add more to it, viz. "leaning or standing at doors."

* A blank in the MS.

Mr. Vincent. Though the law seems a little strict in this clause, yet this clause is not to be derided. I cannot think such sitting at doors, as is usual, can be a sanctification of the Lord's day. I would have the question divided. First put it upon working, and then upon sitting at doors.

The Master of the Rolls. This has been debated in Parliament before now, and it has not been found convenient to have such a clause. In some parts of this city, unless people have liberty to sit at doors, you deprive them of most of the air they have all the week, and destroy their children.

Lord Chief-Justice. (Quatenus ipsum.) It is most certain that there is no unlawfulness or guilt in single sitting at doors. It must be the same as within doors. It is but intended for example's sake. May not a godly man that lives in a rock, as that worthy commoner tells you, yet be well employed. You put a negative pregnant upon a man, to say that sitting at the door is more profane than standing; so there is no such derision in that. It may cause discord, and prying amongst neighbours, into the actions of one another. And this is still left in the judgment of constables and headboroughs, who are generally bad, all the nation over. If there be any defect in this Act, another Parliament may mend it. You have reformed some things which other Parliaments fall short in.

Colonel Briscoe. As much as is required by man, is not to every punctilio, as God's law is. Man's law must not be too severe, but rational; that men may be convinced of the reason of it. I would not have laws too rigid.

Major Burton. You had as good leave out the whole Bill as leave out this clause.

Mr. West. You would not leave out the word "elsewhere;" for there may be profaneness, by sitting under some eminent tree in a village, or an harbour, or Gray's-Inn walks.

The whole clause being put to the question, the House was divided. The Yeas went forth.

Nues 37. Colonel Briscoe and Mr. Williams, Tellers.

Yeas 35. Mr. Rhodes and Mr. Allsopp, Tellers.

So it passed to leave it out.

Major-General Disbrowe. There are other exceptions to

the Bill, and scarce a consistency in sense. I would have it laid aside, at present, lest, whilst providing against profaning the Lord's day, we put ourselves in a capacity to profane it ourselves.

Sir William Strickland. If you leave this unsupported, this may be. I doubt it will not be done this sessions. Respecting that you have but four days time, and so much business. I would have this done *cum grano salis*, that it may bide the test of those that are profaners of the day, or that dispute about the day.

Major-General Disbrowe. To satisfy you that I have scruples, I shall tell you the first, as to the time. It is not yet determined whether the sabbath-day begins at twelve o'clock on Saturday night.*

Sir William Strickland. It is not now to be disputed. It is very apparent that one day of the week is due to God; "and the evening and the morning was the first day."

Colonel Holland. I am not satisfied in the time. Divers godly precious people are unsatisfied about the institution of the day.† And as to time, it is likewise scrupled by many

* It appears, from the writings of this period, that Sunday then commenced, in the observance of many christian professors, as among a few in later times, on Saturday evening. Mr. Nathaniel Bacon, named as a Teller, *supra*, p. 264, writing in 1647, thus describes the customs of our Saxon ancestors:—

"They made the Lord's day to begin upon Saturday, at three o'clock in the afternoon, and to continue till Monday morning. No pastime, not their beloved sport of hunting, was allowed during all that time: nor no works were to be done but such as concerned the worship of God: and those laws they bound with penalty of fine, if the delinquent were a free man; if he were a bond servant, he was to be whipped."

It is remarkable that those who appear to have introduced into Britain this *ultra-judaical* Lord's day, should have been, in religious knowledge and deportment, so different from its restorers in the sixteenth century. This author says, "the Saxons took no note of the vice of profane swearing and cursing; which crime must lie upon the clergymen's account, for their neglect of teaching the point, or upon the general ignorance of those times." See "An Historical Account of the Uniformity of the Government of England," (1647), pp. 97, 98.

† This speaker probably refers to a question frequently discussed in that age, and which Paley (*Mor. Phil.* B. v. ch. 7.) has familiarized to

godly men, who think that only twelve hours is the sabbath-day. It is rejoicing of the heart in observing a day to the Lord. It is better than one thousand days, to be pinned up in a place. I was once when I would have gone to six or

modern enquirers, respecting the *morality* of the sabbath, or whether the first day of the week was separated by divine command, as more sacred than the rest, or only distinguished as an expedient for the purposes of public christian worship and instruction.

Of the latter opinion, justified by their practice, were Calvin and the Calvinists, as well as the Lutherans on the Continent. To these the Calvinists of England and Scotland, in the seventeenth century, were directly opposed; so that their "doctrine of the Sabbath," was named by some Calvinistic "Divines, of the United Provinces, *figmentum Anglicanum*."

It appears by the royal *Injunctions* of 1547 and 1559, compared with an Act passed in 1552, that the Calvinists of the sixteenth century, in England, had agreed with their brethren on the Continent. In 1547, the king, Edward VI., thus directed the clergy:—

"All parsons, vicars, and curates, shall teach and declare unto their parishioners, that they may, with a safe and quiet conscience, in the time of harvest, labour upon the holy and festival days," (which included "all Sundays in the year), and save what God hath sent. And if, for any scrupulosity or grudge of conscience, men should superstitiously abstain from working upon those days, that they should grievously offend and displease God." These directions were adopted by Queen Elizabeth, in 1559, adding to the words *quiet conscience*, "after their common prayer."

The Act of 1552 declared it "lawful to every husbandman, labourer, fisherman, and to all and every other person and persons, of what estate, degree, or condition, he or they be, upon the holy days aforesaid, in harvest, or at any other time in the year when necessity shall require, to labour, ride, fish, or work any kind of work, at their free wills and pleasure."

As to the occupation of Sunday on another point, Mr. Strype informs us, that the Puritans denounced their rigorous persecutor, Bishop Aylmer, who became Bishop of London, in 1576, as "a defender of the breach of the Sabbath," and that he used to play at bowls on those days. The Bishop thus either justified or excused himself; that he never withdrew himself from service or sermon on the Lord's days; that Christ, the best expositor of the Sabbath, said, that "the Sabbath was made for man, and not man for the Sabbath;" that man may have his meat dressed for his health upon the Sabbath, and why might he not have some convenient exercise of his body, for the health thereof, on that day? "Indeed," adds Mr. Strype, "it was the general custom, both at Geneva,

seven sermons on a day. I am not so now. I do not make so much conscience of it now, but do think that I may serve God as well at home with godly servants and other people. I am for the observation of a day as much as any man; and though there were no precept for it, every man by nature is tied to it. I would have it adjourned.

Major-General Whalley. I am sorry that I must differ from that worthy gentleman in all things that he has spoken. All those things have been fully debated at the Committee. I shall not answer again.

Colonel Winthorpe. I move to adjourn the debate. We were well warned by the abortiveness of another Bill as good; I shall not make comparisons, for want, haply, of a little time or patience to hear all members speak. I have heard no answer to the objections offered.

Mr. Godfrey. All that gentleman did say struck at the very body of the Bill. Those things have been all fully debated and answered at the Committee.

He repeated the several answers, and desired that the sense might be mended in those places where it is excepted against, and that it might be put to the question.

Colonel Winthorpe stood up again, and spoke against the Bill, or to adjourn the debate, but was taken down by the noise of calling for the question.

Colonel Purefoy cried "Give him the Bill," meaning Mr. Speaker. The clerk said, if such words had been spoken in some Parliaments, he would have been called to the bar.

The debate held so late that a candle was called in;* and, after a while, the Bill was agreed to pass, and ordered to be ingrossed.

and in all other places where Protestants inhabited, after the service of the Lord's day was over, to refresh themselves with bowling, walking abroad, or other innocent recreations, and the Bishop followed that which, in his travels abroad, he had seen ordinarily practised among them." *Life of Aymer*, (1701), p. 216. See *Calvini Institutio*, L. ii. c. viii. §. 32-34; Heylin's "History of the Sabbath," (1636), B. ii. ch. vi.-viii.; "Life of Elliot," (1694), p. 29; Des Maizeaux's "Life of Chillingworth," (1725), pp. 63, 84, *note*.

* See Vol. I. p. 36, *note*.

The House rose at almost ten, and adjourned till Monday morning eight o'clock.

Monday, June 22, 1657.

Major Aston. One Vincent, an attorney, has sued one Mr. Davies, a member of Parliament for Ireland,* to an oath.

He produced the declaration and other proofs of it, and craved his privilege, and that the parties might be sent for as delinquents.

Mr. Secretary. Though this Davis was chosen, yet he never attended here. He was one of those that were excluded,† and I hope I shall never see him sit within these walls. I could give you particular satisfaction in it, if there was occasion, that he is not a person that deserves privilege in this case.

Major Aston stood up to vindicate himself, and said, if he had thought him to be such a person, he would not have moved for him. He knew nothing of him, but would take that gentleman's word for it, and rest satisfied.

The Bill for Three Months' Assessments on Scotland, was called for, read the third time, and passed, and ordered to be presented, &c.‡

The Bill for Three Years' Assessments upon England, Scotland, and Ireland,§ was read, and, after several amendments, passed.

I tendered a rider to add Mr. Sands and Captain Sedgwick, as Commissioners for Westmoreland.||

Colonel Clarke offered a proviso for remitting half the three assessments on Cardigan for the three months, as well as the

* "Carickfergus and Belfast." *Parl. Hist.* xxi. 23.

† See Vol. I. p. 262, note †. Yet he is not so described in *Parl. Hist.*

‡ "To his Highness the Lord Protector, for his consent." *Journals.*

§ "An Act for an Assessment at the rate of 35,000*l.* by the month, upon England, 6000*l.* by the month, upon Scotland, and 9000*l.* by the month upon Ireland, for three years, from June 24, 1657, for a temporary supply towards the maintenance of the armies and navies of this Commonwealth." *Journals.*

|| See *supra*, p. 159, note †.

three years, which is more than was voted by the House ; but in a crowd the clause passed,* and nobody questioned it.†

Post Meridiem.

The Bill for the Excise was read the third time, and after several provisos tendered,‡ and a great and tugging debate thereupon, the Bill passed.

The House sat till nine o'clock, as they told me. I was in the city, buying clothes and other necessaries.

Tuesday, June 23, 1657. §

Major Aston pressed very much to get in Lord Aberg-

* See *Journals*.

† " Mr. Noel reported amendments to the Bill for importation of Bullion, which were read the first and second time ; and, upon the question, re-committed to the same Committee, to sit the first Tuesday of the next meeting of the Parliament." *Journals*.

‡ Among these was the following, which passed in favour of the fisheries:—

" Provided always, that this Act shall not extend to the laying any Excise upon salt that shall be expended upon the salting or saving of any herrings, cod, ling, pilchards, or any other fish." *Journals*.

§ The first article in the business of this day, probably before the writer of the MS. entered the House, is thus described :

" Ordered, that the Lord Strickland and Major-General Whalley, do represent it unto his Highness the Lord Protector, as the desire of the Parliament, that his Highness will be pleased to remove from *Margaret's*, Westminster, the present preacher, being a prisoner to the Upper Bench ; and also, one Warmstree, who is employed as a lecturer there, being a notorious delinquent ; and to appoint some person of eminent godliness and abilities to be public preacher there ; which the Parliament doth apprehend to be a matter of very great concernment to the good of this place." *Journals*.

Among " the Oxford writers," Wood mentions Thomas Warmestry, D. D. who was once " accounted a Puritan," and whose first publication was in 1641, " A Convocation Speech against Images, Altars, Crosses,

veny's report,* according to former order, but it seems there were divers petitions to cross it, and the House, fearing the trouble of it, laid it aside.

Lord Lambert. Mr. Collingwood, a prisoner, is at the door. I desire he may be called in.

Colonel Jones and *Sir William Strickland* seconded. Others called for the orders of the day.

After some debate, the prisoner was called in. At the bar, on his knees, he denied utterly the matter of fact.† He withdrew.

Mr. Fenwick stood up to excuse the business, and after some debate, he was discharged.

Mr. Highland and others offered only to suspend proceedings till next sessions, and to examine the business then by a Committee.

I had a petition in my hand on behalf of Sir Robert Collingwood, the father, but there was no need to present it; for the House were pleased to suspend the warrant till the second Thursday of next sessions, and then Sir Robert to appear.‡

The Bill for the customs was read the third time. A proviso was offered about farming them and the Excise, which would advance the revenue 130,000*l.* per annum.

Mr. Burton. I move against the clause. You will destroy

the New Canons, and the Oath." In 1642, "he retired for security sake to the King at Oxford." After the Restoration, which he survived till 1665, he became Dean of Worcester. *Athen. Oxon.* (1692) ii. 250.

* On a petition "to Alien the Reversion of certain Lands and Tenements for Payment of his Debts, and Advancement of his Brother and Sisters." See Feb. 25, and March 10, 1656-7. *Journals.*

† See *supra*, p. 220, note §. "Being come to the bar, and kneeling, the Speaker demanded of him whether he did say that there were none but the rascality now in power, who envied that gentlemen should enjoy their recreations? He doth utterly deny that he spoke any such words." *Journals.*

‡ "Resolved, that Sir Robert Collingwood have time to appear at the bar the second Thursday of the next meeting; and in the meantime, the warrant to the Serjeant-at-arms be suspended." *Journals.*

the revenue by it, and discontent the parties that pay it. I move to have a clause for merchants' convoys.*

The Master of the Rolls. I am against farming of your Excise and Customs. Though it may be that gentleman and I are not so well understood, yet he spoke a great deal of reason.

Lord Chief-Justice Glynn. I am against the proviso, and would rather have a Bill brought in on purpose for it. There may be conveniencies and inconveniencies.

Captain Baynes. If you intend a Bill, you must lay aside the proviso.

Sir Christopher Pack. The customs were never so well paid, nor with so much quiet, as when they were let out to farm. It was both more satisfaction to the merchants, and did advance the revenue.

The Lord Provost of Edinburgh offered a proviso, touching the small coal in Scotland, that it may pay but half customs.

The proviso was read the first time.

Major-General Disbrowe opened the reasonableness of the proviso, and said there was no more desired than was formerly.

Lord Chief-Justice Glynn. It is improper for any member to offer a proviso to a Money Bill without an order. The reason is, because nobody can bring in a Bill for money without an order.

Captain Lilburn. I move that the proviso be read the second time, for that I hope you will do the like for Newcastle. I have a proviso to that purpose.

Lord Strickland. This was fully debated at the Committee, and thrown out, upon this account, that they might make all the great coal. We have a proviso of the same nature for Newcastle.

Judge Lawrence. It is impossible to break the great coal

* This was made "part of the Bill for the safeguard of the seas, the convoy of merchants' ships and goods, and the securing of trade." *Journals.*

into small, for then the coal will not cake; whereas Newcastle coal will cake though never so small. You always made a distinction, and therefore I hope you will also do it now.

Major-General Whalley. It is not, I hope, against the orders of the House, to offer a proviso in this case. You did yesterday abate 30s. per ton to the vintners in 3*l.* by a proviso.* There is nothing offered in it but what was formerly. It is only reasonable.

Lord Lambert. I move, for the same reasons, that the proviso may be read. It is very reasonable.

The proviso was read the second time accordingly.

Captain Lilburn moved, that the small coal might pay 3s. per ton, and for some other alterations in the proviso.

Lord Strickland. If you pass this proviso, you must never look for other than small coal to come from Scotland. I hope you will also consider Newcastle, for the pan-coal, which pays as much as the other coal, without any abatement.

Mr. Disbrowe. You may as rationally argue that I shall cut my doublet in pieces, the better to sell it in shreds. So well may the great coal be broken into small coal.

The question being put, that the proviso be part of the Bill, the House was divided.

Mr. Speaker declared for the *Yeas*.

Captain Lilburn for the *Noes*.

The *Yeas* going out, it was yielded by the *Noes*.†

* On "the humble petition of the Masters, Wardens, and Company of Vintners, of the City of London and Westminster, "Resolved, that, instead of the sum of 'three pounds' per tun for the wine remaining in the vintners', wine-coopers', and retailers' hands, the sum of 'thirty shillings' be set upon the said wine." *Journals*.

† "Resolved, that the rates of custom of the coal of Scotland, in this present Act contained, shall extend only to the great coal of Scotland, and that the small coal of that nation shall pay only half the custom of the great coal.

"Another proviso was tendered, touching pan-coals of Newcastle, which passed in the negative." *Ibid*.

A negative was passed on the tender of the following provisos, and

Mr. Speaker was very unwilling to the question, and put it thus: So many as are of opinion that this proviso to take away half the customs upon small coal in Scotland, &c.

Post Meridiem.

Major-General Disbrowe. Your time of rising draws near. I desire to know, now, upon what foundation we are; how we shall know how to act? His Highness is under the obligation of an oath to the former government,* and you have in your Petition and Advice declared, that his Highness shall take an oath. I would have some course taken in that, to absolve his Highness from his former oath; and that you declare to the people, in some solemn way, your alteration, and that an oath may also be prepared for the people to take, on the other hand; otherwise his Highness is in a pretty dangerous case. I would have a Committee appointed to consider of some way to propound to you of this nature.

Major-General Whalley. I shall not take up your time, but only stand up to second that motion, that a Committee be appointed.

Colonel Shapcott. There is more in that which you have done. People talk of your having brought the power from without doors. You have altered the constitution of the government. We are not all one man's children. It is more than stepping from Protector to Protector. I would have some solemnity, to show that the government takes its foundation by Act of Parliament. I mean not unction, and

may serve to show the spirit of rigid nationality, which now, and long after, prevailed in Parliament.

"That, if any native of this Commonwealth, after entry of coals at Newcastle, for any home port, and not finding sale for the same, he, making entry in such home port, according to Newcastle measure, may transport the same to any foreign port.

"That this Act, or any thing therein contained, shall not extend to prohibit the carriage of hides and tallow out of Ireland into England." *Ibid.*

* The Instrument of Government, to which he was sworn, Dec. 16, 1653. See *Parl. Hist.* xx. 263.

the like; but a solemn publication and proclamation of your Chief Magistrate, and that likewise an oath be prepared to oblige his Highness to the people, as well as we are bound to him.

Colonel White moved, that some course might be taken to settle the Council, in regard things are to be done by them when we are parted.

Colonel Sydenham. This is a new motion to me, so you will pardon me if I speak without premeditation. I am confident it is made with a good intention. As to that of an oath, this nation has had no great settlement by oaths. We ought to be tender in such cases. I had rather live under a magistrate that is under no oath. If it once begin, it will go through. Some, haply, will stick at nothing; others will be left behind. There will be a great discrimination.

Promissory oaths to me are not so safe. How often have governments been well thought on for a time, and afterwards pulled up. To swear to things that are so alterable! It is said they bind but to honest things; a Parliament may alter it. If it bind not as to that, I pray what does it bind to. I doubt it will prove a stumbling-block. I wish I may be a very false prophet, that you may not find it a snare to the people of God. I wish it may be my single opinion. If you will have an oath, I would have it congruous to former oaths. I doubt it will otherwise be but to appoint a Committee to ensnare men, good men. I must bear my testimony against it.

Mr. Drake. It is agreed by all that God's vicegerent should take an oath, and it is as much agreed on the other side that the oath should be reciprocal.

I would have a Committee, not only to prepare the one but the other, and likewise the manner of publishing your settlement.

Sir Charles Wolseley. I should be as tender in point of oaths as any man. I am against introducing a promissory oath all the nation over. I shall only speak to what you have done. You have agreed of an oath, so that the motion against that is irregular. The oath is to be agreed upon by

the Parliament and his Highness; and if the Parliament part, how can his Highness act upon the Petition and Advice containing a new government, and nothing to put him in a capacity to act upon it?

I would have the oath as general as may be, to govern us by the laws. The motion cannot be denied. I take it for granted that my Lord is disobliged from his former oath; for if the new Instrument be of force, the other is null. Now as to that of the Council, their oath is also at an end. I wish this present motion had been made sooner. I would have a Committee appointed to this purpose, that every man may know where he is, and what is his duty.

Lord Lambert. That which, I think, is propounded to you is, that it be examined upon what foundation you are. Many things in the Petition and Advice are of great concernment, but this which is pitched upon is, in my opinion, none of the greatest, but the least. The fruits of oaths promissory have not been so much formerly, that they are now to be insisted upon. Suppose it have its ends, so as to crush or strain the conscience of those that have faithfully served you, and will still go on to serve you. If it should light upon a few such, I do not think it will either do you, or his Highness, or the nation, service. If any thing can be done that tends to oneness or unity, I would fain be at that Committee; but I think that which is moved may well stay now, and it is no best season for it.

Sir Richard Onslow. If ever a season, certainly now. The people abroad conceive that two governments are now a-foot; and his Highness may be obliged to either. This was always done upon a new settlement. All justices, judges, &c. are sworn, and why the Chief Magistrate should be disobliged, I know no reason. It is the greatest obligation the people can have. What the oath shall be is not now in debate; or whether it shall be general, to all, or to all persons in trust. But for that oath of his Highness, it must be done, because in your petition. I would have a Committee to prepare.

Mr. Highland. I doubt they are oaths that make the land mourn: what need of any more? His Highness was once

sworn as Protector: he is no more, now. After a justice of peace is once sworn, be the commission never so often renewed, he shall swear no more, unless he have been put out. His Highness is not put out, or deposed. I find not that magistrates in Scripture did often take oaths. His Highness is under as great an obligation as you can tie him to. Your best friends expect no oaths, though it be told you the people expect it. The learned judges attended at that time, and swore his Highness.* I know not what you swear him to more. It was their opinion, that they were upon a good foundation. I shall humbly move, no further oaths may be taken by my Lord Protector.

Major-General Jephson. I was loath to take down that gentleman, whose whole speech tended against both the Orders of the House, and an Act of Parliament. I shall not enter into the merits of the case; but it is expressly against what you have ordered. We ought to be tender in doing and undoing.

Lord Lambert stood up and moved, that he spoke not against an oath, but only against the timing of it; which he hoped he might speak to.

Captain Baynes. We ought to be tender in putting contrary oaths upon his Highness. He has already taken an

*“Many eminent statesmen,” says Mr. Herport, “sensible of the abuses of oaths, allow that, under the most reasonable form, the duties implied in them are of such extent, as to render the performance of them extremely difficult. Whoever obtains an office, civil or military, must swear to so many particulars of various kinds, and confirm his oath with such imprecations on himself, as if it was on this oath, and not on the coercion of the laws, that the good behaviour of the subjects depended; and this is a mistake common to all governments.”

This able investigator of an important, and too little considered question, again remarks, that “the subjects of many oaths cannot, in their very nature, be rationally sworn to; not to mention, that inflicting a penalty on oaths tends to root out all sense of religion; it being certainly from religion alone that oaths should derive their whole sanction.” See “An Essay on Truths of Importance to the Happiness of Mankind; wherein the doctrine of Oaths, as relative to religious and civil governments is impartially considered.” By the late Rev. Mr. Herport, of the Canton of Berne. Translated from the German. (1768) pp. iii. 31.

oath to rule according to the laws; and is not your Petition and Advice now a law? I wish you would not put any inconsistency upon what his Highness has sworn to, with this you now intend.

There are many things yet unrepresented in the Petition, as the nomination of the other House, &c. If you will have any, this may stay as well as the other. It is not so seasonable now. The House is thin now, and next meeting may be as well.

Colonel Jones. I agree with that worthy gentleman, in being tender in putting inconsistent oaths upon his Highness; but I cannot agree about the time. Certainly, now is the best season; rather than to leave his Highness in a doubt that he is obliged by his former oath, and yet must take a new one; or that another government is a-foot, and the Chief Magistrate in suspense which to act by. I had rather, avowedly, go back to the former government.

Colonel Sydenham. We are under a great mistake; whence it comes, I know not. I only spoke to be tender of putting oaths upon his Highness. He is already obliged by an oath. There is never a word in that book,* to impose an oath upon Parliaments, or upon the people. I said, I had rather be under a magistrate that is under no oath, than have, by an oath, all the nation and people consequently drawn in. I may say, at any time, my cloak is mine; but I need not always swear it. His Highness and the Council, upon taking away the Engage-

* It does not appear to what book this speaker referred; perhaps to a New Testament, lying on the table of the House, for the purpose of administering oaths. These were considered, long before the appearance of the Quakers, as inconsistent, at least in their frequent use, with the directions of the Christian legislator.

Selden, on the authority of Sir John Cheke (*De pronunc. Græcæ linguæ*) relates of the celebrated physician, Linacre, who died in 1524, that, "a little before his death, reading this passage (*Mat. v. 34.*), for the first time, he threw away the book, with these words: 'We are not Christians, or the Gospel is wrong: we swear too much, or Christ forbids too much.'" See Herport's *Essay*, pp. 111, 112. *Gen. Biog. Dict.* (1784) viii. 254.

ment,* published a declaration against all oaths.† It was a sad thing of that cavalier who denied a Parliament could do any thing. Answer: They could not make such an oath as he could not swallow.

Major-General Boteler. These things might well have been spoken at another time. Three things are insisted upon.

1. A congruity with former oaths. That is impossible.
2. The time of it. For my part, now I think is the only time. I think we are in an *inter-regnum*; but that my Lord cannot exercise government without this oath, I cannot tell.
3. For the matter of it. I cannot say those who have spoken to it have spoken unseasonably. I think this is the only time. That is my opinion; and that it may be speedy, is my motion.

Lord Strickland. I would be sorry, that it should be so impossible as that gentleman moves, to make the oath congruous. I hope it will be so carefully penned as to absolve

* According to an Ordinance of the Long Parliament, December 11, 1649. It was in these words—"I do declare and promise, that I will be true and faithful to the Commonwealth of England, as the same is now established, without a King or House of Lords." *Parl. Hist.* xix. 212.

In January, 1649, 50, it was enacted, that it be subscribed by "all men whatsoever, of the age of eighteen years or upwards." *Ibid.* p. 242.

The reception of the *Engagement* appears to have been by no means general. *Whitlock* (Feb. 23, 1649, 50) reports the receipt of "letters, that the heads of houses, fellows, and graduates of the University, and the mayor, aldermen, and common council-men of Oxford, had all taken the *Engagement*; and all the officers both of the City and University."

About the same time, there were "letters from Chester, of the ministers in that county bitterly exclaiming against the *Engagement*, and condemning all that take it to the pit of Hell. From Exeter, letters of the avernness of the citizens to the *Engagement*;" and "that all the magistrates, except two constables, refused to take it." *Memorials*, (1732) pp. 442. 444.

† The Preamble to the Act for annulling the former Ordinance states, that "many general and promissory oaths and engagements, in former times imposed upon the people of this nation, have proved burdens and snares to tender consciences, and yet have been exacted under severe penalties, forfeitures, and losses." *Parl. Hist.* xx. 269.

his Highness from that part which cannot be made congruous.

Major-General Boteler stood up and explained himself, as to the impossibility of the congruity: that if the governments differ, the nature of the oath must be also different.

Major Audley. This oath has stayed a month: it may well stay till next meeting.

Lord Whitlock. It is strange logic to say, because we have been a month under an *inter-regnum*, we must therefore be longer so. As to that of one oath serving for both, it is clear, though his Highness be sworn to act according to the laws, yet he is also bound to the old government; and this is clearly a new government, and so, consequently, requires a new oath. By the setting up a new government, he is disobliged from the former. It is but *ad subjectum materia*: otherwise it would be hardly authorized by most gentlemen here that have taken former oaths.

The Master of the Rolls. If I had not a near friend, and my heart, that prompt me to speak, I would speak plainly. I always thought that by the Petition and Advice, the Instrument was out of doors. To prevent all ugly suspicions and jealousies, I would have it quite pulled down, and declared so. Some persons will ask us, by what government we sit? But, as to the time of this oath, I cannot think it is so fit. I look upon this as but an *embrio*, very imperfect yet. What shall his Highness be sworn to? I would speak as if it were my own case. I should not take an oath till it were perfect.

As to that of his Highness being obliged by his former oath, it is clearly to be understood that he is discharged from it, really and clearly. As I shall answer it before God, I believe it, he is absolved from the tie by the former government; it being taken away. I cannot conceive, as the case stands now before you, but that either you must prepare an oath for his Highness, or a reciprocal oath.

Colonel Cox. My respect for his Highness makes me speak one word, why I think this is not a season to put this oath upon his Highness. He is under one already; and though it is true he was by that oath obliged to the government, yet

he is now free as to that; and I think those that contrived the government were soonest weary of it. It looks like as if his Highness had betrayed his former trust, and you must now rebind him. Like two persons that are legally divorced, if they come together again, they must be married again. I grant it is the custom of all countries, upon change of government, to take an oath: but I think you are not at present prepared for it.

Sir William Strickland. Of late, we have had a very great weight of oaths upon us. We had an oath used to stand here, the Covenant;* I wish it had not been taken away. I would not have us to think of an oath without trembling. This is a thing not of such haste. Sudden doing may offend God; deliberation cannot. We are but a thin House: not having the number, I would have the greatest advice that may be in this matter. I am sorry I have taken up so much of your time. My motion is, that you would not think of it at this season.

Mr. Bampffield. It cannot be conceived that a person bound by a former oath is disobliged by taking another. If by setting up a new government, and without an oath he be disobliged from former oaths, what present need is there of it?

In all History that I have read, I never found that oaths have been any great tie upon the Chief Magistrate, not to reflect upon all. But if the persons were not bound by a principle of conscience, it will be hard to find that an oath bound. If you see that the tie of conscience will do without an oath, what need have you to impose it? Whether such an oath as this may not weaken your hands?

Probably, in the Council, some may scruple, and so elsewhere. If it keep but one good able man out of the Council, or the Parliament, the nation may have need of that one. Perhaps the desire of doing good may strain and force men to sin. I do not see but his Highness is bound sufficiently by his consent to the Petition and Advice, without an oath.

* "The Solemn League and Covenant" (See *supra*, p. 214, note*.) had probably been set up, conspicuously, in the House.

For that it may be an occasion of evil, a weakening of your hands, I beseech you that you would not do it now.

Lord Lambert. Your question is complexed. It is of three parts. I desire they may be severally put.

Mr. Grove. I second that you would divide the question, for it is a very complicated question.

Others moved that in regard it is not binding, but only leaves it to the Committee to present their opinion, there is no further danger in it.

Mr. Speaker. I hope if you divide the question, every man will not take the liberty to speak to it over again.

The Master of the Rolls. They ought not to speak again.

The question being put upon the first part, as to preparing of an oath, the House was divided. The *Yeas* went forth, for though it was already by Act of Parliament declared that an oath should be taken, yet it was new to appoint a Committee to prepare that oath.

Yeas 68. Major-General Disbrowe and Colonel Philip Jones, Tellers.

Noes 51. Colonel Sydenham and Colonel Sankey, Tellers.

Mr. Speaker declared for the *Yeas*.

Lord Lambert and *Colonel Sydenham* for the *Noes*.

The other two questions were put and passed, without any debate.*

A Committee was appointed for these purposes, to withdraw at the rising of the House.

Mr. Fenwick moved that the Bill for the borders† might be read now, which was short and would ask no debate.

* "Resolved, that this Committee do offer to this House what they think fit for the solemnization and publication of his Highness's acceptance of the present Government, now established by authority of Parliament.

"Resolved, that this Committee do also offer to the House what they think fit, touching the settlement of his Highness's council, and such other matters as they shall think necessary, in pursuance of the humble Petition and Advice, and of the additional Petition and Advice." *Journals.*

† "For the better suppressing of theft upon the borders of England and Scotland." *Ibid.*

In

Colonel Shapcott moved to read the Bill of Indemnity now, and that the other Bill might be read to-morrow.

Sir William Strickland and *Mr. Vincent* moved for a day for the Bill of Probate of Wills.*

It was again moved to read the Bill of Indemnity,† which was read accordingly; and, after some amendments and alterations, agreed to pass for a law.

Vide what was done more.‡ I went out.

Richard Stayner, captain of the Speaker's frigate, received the honour of knighthood at Whitehall, for his several good services at sea, &c. See the Diurnal.§

Wednesday, June 24, 1657.

Lord Chief-Justice Glynn reported from the Committee appointed to withdraw yesterday about the oath of his Highness and the Council. It was in relation to an oath of his Highness and the Council, and members of Parliament, and the solemnity of investing his Highness.

In this Bill was a clause awarding 10*l.* to the "discoverer, on the conviction of any Moss-troopers, residing upon the borders of England or Scotland, or any Tories in Ireland." *Ibid.* See *supra*, p. 210, note †.

* "Resolved, that the Bill for Wills and Administrations be read to-morrow morning." *Journals.*

† See *supra*, p. 253.

‡ The Bills passed "for punishing such persons as live at high rates," &c. (*supra*, p. 229.). Also, "for giving liberty to *Christopher Hatton*, &c. to erect buildings in *Hatton Garden* before 1660." See *supra*, p. 182.

To this Bill was added a clause, enabling "*Wm. Wheeler, Esquire*, who is, by lease and contract, engaged to build certain houses in and upon his lands in *Spital-fields*, in the parish of *Stepney*, at any time before *October 1, 1660*, to erect, new build, and finish, upon eight acres of the said fields, on part whereof divers houses and edifices are already built, and streets, and highways set out, several houses, buildings, and their appurtenances."

Another clause enabled "the Mayor, Commonalty and Citizens of *London*, or any of their tenants, to build houses on that void place, commonly called, or known by the name of, *Moorditch*, or *Towneditch*, paying one year's value, within one month after the said houses or any of them are built." See *Journals.*

§ *Mercurius Politicus*, No. 367. See *supra*, p. 146, note *.

Captain Baynes. There is more in the Report than was in the Order to the Committee. I move that the Order be read. This done, the Report was proceeded upon, &c.

1. That your Highness will be pleased, according to the usage,* to take an oath in the form ensuing:—

“ I do promise, in the presence of God, that to the utmost of my power I will endeavour, as Chief Magistrate of these three nations, the preservation of the just rights and privileges of the people thereof, and to govern according to law, &c.† The like for his successors.

2. That all of the Privy Council shall take an oath to be faithful to his Highness's person, and his just authority, and for securing, &c.

3. That all members of either House shall also take an oath to be faithful to the Lord Protector, and to preserve the rights and liberties of the people.

4. That your Highness will, before next meeting, issue out your summons for members to serve in the other House, and that the persons so summoned are hereby declared to be the other House, and to have all the privileges in the Petition and Advice expressed.

5. Westminster-hall to be prepared suitable to such a solemnity, a chair of state on the high end, seats for members and Lord Mayor and Aldermen ; the Speaker to demand the assent of the people, and then to administer the oath, and deliver his Highness a sword, by way of investiture.

Major-General Boteler moved to proceed upon the last part first, for that there will be time little enough to prepare the place.

Mr. Bond seconded.

Colonel Jones moved to take the report in parts as it lies, and so it was taken up, and first for his Highness's oath.

Colonel Sydenham moved against the oath.

Mr. Bampffield offered additions to the oath, to defend the Protestant religion, and not to violate the privileges of

* “ Of former Chief Magistrates of these nations, for the better satisfaction of the people thereof.” *Journals.*

† See *infra*, June 25.

Parliament and liberty of the people; so would have it recommended.

Captain Buynes. I was against imposing any oath upon his Highness; but since it is the sense of the House, I would have it such as may be effectual.

He offered some additions to it, and moved a re-commitment.

Mr. Downing. It is very essential, what was moved for an additional clause about religion. It was always in the form of an oath to begin with religion. We may have a Papist become Chief Magistrate.

Major-General Disbrowe. The oath is full enough without it. To put in such a clause about the Protestant religion will but be a snare, in regard of the great disputes about what shall be the Protestant religion.

Lord-Chief Justice Glynn offered a clause to this purpose.

Colonel Jones. I move to second it. We have had full experience of his Highness's attention to the Protestant religion, and I never doubted but his Highness would cheerfully take it.

Major-General Goffe moved against the words in the oath, "in the name of God."

Mr. Bampffield. It is the phrase of Scripture.

Colonel Briscoe. There was no need of an oath. His Highness was obliged, by his consent to the Petition and Advice. But if you will have an oath, I would have the clause in it about religion.

The clause was added accordingly.

Mr. Bampffield moved another addition, after laws, viz. statutes, customs, &c.

Lord Chief-Justice. It was my opinion, last Parliament, that laws was the most general and safest word, enumerations being never the best, where it was agreed the best to have no enumerations.

Major Audley moved a further addition, viz. "And according to the humble Petition and Advice," which, though it be now a law, yet we cannot tell but another Parliament may think as slightly of our laws as that of the little Parlia-

ment,* who thought themselves to be the legislative; yet now you confirm their laws.

The Master of the Rolls moved for this addition, viz. and for maintenance and preservation of the rights, &c. which was done.

Lord Lambert. Excepted against the preamble before the oath, relating to the custom of former Chief Magistrates. An oath was a sacred thing, and ought to be guided by religion, and not by custom.

Mr. Godfrey. There is something wanting in the oath, and that is drawn from the inducement, viz. the custom of the Chief Magistrates to take an oath; if you refer to that usage, and leave out the most material part, which was the ground of the quarrel, and upon which all turns.

I shall not state the question, negative, or no negative, by law. It is certain it is upon conscience to confirm those good and wholesome laws that shall be tendered him by the people. Queen Elizabeth refused to confirm a law for establishing Popery, for that was not good nor wholesome; so no breach of her oath by refusal.

All the blood that has been spent has been about this, and wherein his Highness himself engaged, viz. and to confirm these good and wholesome laws that the people in Parliament shall present unto him. This I would have added.

Mr. Vincent. I stand up to second those two motions that were now made you.

1. To secure the privileges of Parliament: unless those be kept entire, it is an error in the first concoction, scarce remediable.

2. To put this long controverted point out of question, the negative voice. To me, I profess, I look upon it that the legislature is, where the negative voice is. I know not what a Parliament signifies else.

It will be said that monies were always the chief consideration. Now you have parted with that by settling a perpetual revenue; and unless you insert this in your oath, I

* See *supra*, p. 67, note.

know not how you shall come to your consideration. Late experience tells us how, for a circumstance, the Chief Magistrate may reject any law.

Lord Chief-Justice Glynn moved, that this was debated when the Petition and Advice was debated. This was never the quarrel stated nor determined. It will be hard to prove that the Long Parliament ever denied the King the negative voice. As to that of the privilege of Parliament, it is comprehended under the word laws.

Resolved, the oath so amended.*

Resolved, that his Highness's successors shall take the like oath.

The oath of the Privy Council was read.

Mr. Bampfield moved to add the same clause in the oath for the council that was put in his Highness's oath.

Colonel White. I move to put out the word "just," and insert the word "lawful;" and that the Council be all chosen to have their approbation here. The Petition and Advice makes no provision.

Lord Lambert moved some amendments, viz. to "advise and maintain."

Colonel Jones agreed that this was material.

Mr. Bampfield. I offer some other amendments to the oath, as was agreed on in last Parliament; that the Council may not be under an oath not to reveal secrets to the Parliament in some cases. We remember Lord Strafford's case.†

* "In the form ensuing. I do, in the presence and by the name of God Almighty, promise and swear, that, to the utmost of my power, I will uphold and maintain the true, reformed, Protestant, Christian religion, in the purity thereof, as it is contained in the Holy Scriptures of the Old and New Testament: and encourage the profession and professors of the same: and that, to the utmost of my power I will endeavour, as Chief Magistrate of these three nations, the maintenance and preservation of the just rights and privileges of the people thereof: and shall, in all things, according to my best knowledge and power, govern the people of these nations, according to law." *Journals.*

† Whose advice to render the King arbitrary, delivered in the Council, May 1640, was not disclosed to the Parliament till April, 1641, and then discovered by Sir H. Vane, Junr. See *Whitlock*, p. 43.

Lord Whitlock agreed this to be very proper, not to reveal them without the consent of his Highness, the Parliament, or Council, which was added.

Major Aston moved, that the Council of Ireland might take the same oath. It was said that may be added after, and the like for Scotland.

Captain Baynes. The Council are the trustees of the people. I would have a clause added that they shall likewise be faithful to the people; for that no provision is made in that oath for their rights. We have good cause to suspect that we shall not always have good Chief Magistrates.

Colonel Chadwick. I second that motion. It is very fit to have such a clause.

The Master of the Rolls offered this amendment, "nor wittingly do any thing to the prejudice of the Commonwealth."

Mr. Bampffield offered an addition, according as was in the case agreed last Parliament, viz. "in order to the good government, peace, and welfare of these nations."

Resolved, that these words be added.

Resolved, that the word "lawful" be put instead of the word "just."

Colonel Cox moved additions, viz. "nor wittingly nor willingly do any thing to the disadvantage of the Commonwealth."

Lord Whitlock. It is not fit to put such a stress upon the office of a Privy Counsellor. They are accountable for their actions, in Parliament. They have not any power of legislature. This will put a low esteem upon Parliaments, and set up a jurisdiction you intend not. I like not that word "consent." Lay it rather upon the word "advise."

The Master of the Rolls agreed that the word "consent" was too large, and would have it "advise" or "do any thing," &c.

Lord Strickland. I would have you to distinguish what you mean by consent; for a man may be over voted, and then it is our act.

Sir William Strickland and *Major General Goffe* moved to leave out the word "consent." It looks like a legislature. Would you have them to protest against what is voted there?

Colonel Skapcott. I am against the word "consent." In Parliament, as a Court of Justice, though some dissent, yet the minor part have their consent included: otherwise their constitution is destroyed. On one side, the word "consent" gives too much power; on the other side, it is too straight for the reasons asserted.

Sir Richard Onslow moved, that the word may stand. It differs from that of a Parliament, every Privy Counsellor represents himself. And there may be an entry in a book, who consents, and who dissents.

Lord Lambert took some other exceptions to the oath, but I could not hear for the noise.

Mr. Secretary. I except against the word "disadvantage," which is very comprehensive, as also against the word "interest." These are not legal terms, and nobody can tell how far those words may reach.

Lord Strickland. If those words "lawful liberty" be in, you debar the Secretary from taking any man up upon suspicion; for if he must discover the reason of securing such person, then he discovers the plot before he fully know it.

Colonel Sydenham. I am against all oaths,* because there are snares in them; much more, against additions to oaths: for more words, more sins. But if you will do any thing, it must be moved by a member.

Mr. Speaker. I hope you will not deny me the liberty of a member. I never find any but one deny me this, to offer an amendment to you.

Colonel Rouse. I see your oaths grow, and it seems men's consciences must grow to them. I would not have you go according to the rule of that dead carcase, the last Parliament; who, by your own acknowledgment, did make an oath for

* See *supra*, p. 275.

the Council, that they would not have taken themselves, on purpose to lay them aside; tying us to perform such directions as the Parliament should hereafter give,* which was more than a Jew or Turk would impose.

Sir John Thorowgood moved some additions in relation to property and liberty, &c.; but it was laid aside, and the oath was resolved.†

Resolved, that the like oath be taken by the Council of Scotland and Ireland.

Mr. Bampffield moved the addition of a clause, that the affirmative and negative of every member of the Council shall be entered by the Council; but this being held improper to be offered now, it was waved, and they went on with the Report.

The oath for the members of Parliament was read.

Mr. Grove. I shall not speak against the matter of the oath; but I am against any oath at all in this case. Your Committee had no such order. I desire you will lay it aside. Oaths are but snares; times are changeable, and a multiplicity of oaths draw but on to sin. It will but keep out the conscientious, and let in those that make no scruple of any oath. Haply, some may be kept, both out of this place and the Council, by imposing this oath.

Colonel Shapcott. You have admitted this Report, and you must proceed upon it. As to the matter of an oath in this case, do we not in every action between party and party, swear men to do justly; and may not the people demand it of you, to take an oath to do justice in this greater trust whereunto you are called? And here is no more in this oath than

* See the conclusion of the oath, (1654.) *Parl. Hist.* xx. 389, 390.

† The member of the Council, after a promise to uphold the Christian religion, &c. as in the terms of the Protector's oath, and a declaration of allegiance to "the Lord Protector," engages that he "shall not contrive, design or attempt any thing against the person or lawful authority of his said Highness; and shall keep secret all matters that shall be treated of in Council, and put under secrecy; and not reveal them, but by command or consent of his Highness, the Parliament, or the Council; and shall in all things faithfully perform the trust," &c. See *Journals*.

what was contained in the Recognition,* whereunto most members here have already subscribed.

Captain Buynes. This is neither agreeable to your orders, nor yet to the privilege of Parliament, to bring in any such oath. I desire the order may be read.

Mr. Godfrey. It was never denied, to read an order when it was moved.

The order was read accordingly.

Mr. Drake. You are the fountain of justice; whence all the springs of justice flow to the nations. His Highness is under an oath, and you have bound up the Council by an oath. For you, the Parliament, which are the great legislature, to go free, is strange; and you cannot ingenuously bind one and not another.

Major-General Goffe. It will be disingenuous to think that his Highness and the Council should be under an oath, and your members free. The oath is tenderly penned, and I hope it is no more than ought in reason to be done. Your Committee did debate whether it was within their order, and they found it pursuant to the Petition and Advice.

Mr. Godfrey. I must insist upon it, before I speak any thing to the merit of the business, that this Report comes not properly in, and ought not to be received. This is, I think, hard measure, not being pursuant to the Petition and Advice: so I would have it laid aside.

Lord Chief-Justice Glynn. Your Committee had as much power to bring in this oath as that for the Council. As to the oath of itself, it is not indifferent that his Highness should take an oath, and we take none. It is no more than, formerly, members have taken in all Parliaments. Is it not more fit now, to impose an oath to distinguish between persons of several judgment? May not the children of Cavaliers, that are of a contrary opinion, creep into this House, who are not within the penalty, and yet will be bound up by the oath?

Colonel Sydenham offered these reasons against the oath:—

* September 7, 1654. See *Parl. Hist.* xx. 369, 370.

1. It comes in against your order.
2. It has a tendency to impose an oath upon the whole nation; and you do in effect lay an oath upon the people of England; the collective body of England. I did foresee this would bring it upon every individual.
3. It is no argument to say, because his Highness is bound, therefore we must be bound. He is a single person, set up to act for the body; and not intrusted for himself, but for the people.
4. As to that, that oaths have been taken, there is such a vast parenthesis, a sea of blood betwixt, that it needs not be urged what was done formerly. You are not bound to take that chain up, upon yourselves, upon the people, upon posterity. It is like that of the ceremonial law. A servant may go out free if he will. If he will not go out, bore his ear to the post.*
5. It is harder to tie members of Parliament than those of the Council. That is a narrower door; and if he cannot go in, he may stay behind; but he cannot stay out of the nation.
6. You have said you would have Parliament free; and will you now lay a force upon you? I had rather soldiers stood at the door, than my conscience to keep me out. It is worse than a file of musketeers. Who will you keep out? those that are faithful to you and your good intentions. They that can tumble down nations and kingdoms, none more ready to take it; none less ready to keep it. You will make it a straight-way for good men, and a broad-way for bad.

Mr. Trevor. I shall not dispute how this Report comes before you, nor speak to the matter of an oath. Certainly, in all civil powers and governments, oaths are very useful and necessary. The greater the trust is, the greater the obligation. Does not every petty constable take an oath? Have you not resolved, that the Council and his Highness shall take an oath? I would be free from ties as to man, and strictly tied as to God. There is no other way to take off other ties. I would have the Parliament to take the oath, and to keep it too.

* See *Exod.* xxi. 6.

Colonel Winthorpe. I see nothing of precedent for it, but the example of former times, to which I shall say nothing.

There can be nothing in an oath but to lay a stronger obligation and assurance from him that I trust, that I employ; as Abraham swore his servant. But that we that trust should take an oath: we are only trusted, by our Indentures, and trusted as by way of executors. It seems unuseful, incongruous and unreasonable, that a people that are not trusted with any thing, should be under any obligation to perform a trust to themselves.

Colonel Jones. It is clear we are here servants for the people. We are under a trust. His Highness is under a trust.

Is it ingenuous to put his Highness under such a test, as not to trust his faithfulness; and yet our own faithfulness must come to no test?

It has been no long parenthesis.* I had rather have an oath made here than without doors; and whilst we make our own oath, there is no danger.

I understand not that argument that we are the collective body of the nation; and therefore all the nation takes it, in our taking of it.† I think it is for the freedom of Parliament, that an oath should be imposed.

Major-General Whalley. I wonder to see gentlemen so unwilling that a Parliament should be imposed on by themselves, and yet his Highness must be imposed on.

I could instance to you where Parliaments have given away their liberty and their religion to the lusts of a king;‡ and it is fit there should be an oath to bind men in such cases.

Lord Fiennes. In your Petition and Advice you bind his Highness to call Parliaments according to the law, and by the law, members of Parliament ought to take an oath. Is it reasonable that he should be bound, and we free?

He that has a conscience that he cannot take this oath, he

* See Colonel Sydenham, *supra*, p. 292.

† See *Ibid.*

‡ Probably referring to the compliant Parliaments of Hen. VIII.

is not fit to sit here; for he must either have a prejudice against his Highness or the liberties or freedom of the people. I do wonder any should scruple what is his duty in this case to do.

Mr. Godfrey. Against the oath.

1. The Petition and Advice holds it not forth.
2. Not a word of an oath in his Highness's proposals.
3. Nothing of it in your additional Petition and Advice.
4. You are making new matter every day. I wish it had been made more early, when all your members——.* For a matter of this weight to come within these doors, when you are going out of doors!

5. It is against the Declaration to take away the Engagement.† It is said there, that oaths and Engagements are generally found to be snares. That Engagement showed as far as this.

6. The argument, that no more is required but faithfulness, and what is your duty, and no man fit to sit here that does deny it: the same had laid as strongly for the Engagement.

Therefore, for the inconsistencies of it with that Declaration, unless principles vary, and are but *per hic hoc*, it will strangely refute that principle. I could wish, for the honour of that Declaration, and for the honour of the Parliament, that you would not impose an oath at this time.

7. As to that of his Highness' oath, *volenti non sit injuria*.

8. We are under penal laws, and liable to be questioned.

They are a security for his Highness against us.

It is a strange thing to me that such fetters should be called freedom; and all the honour you have in it is, in making your own shackles.

9. As to the judgment of what shall be faithfulness. It is not fair that you should interpret it. It must be to the sense of him by whom it is made, *ad sensum imponentis*, and that may prove a snare, or *ad sensum impositi*, and that makes way for equivocation. I shall not judge but a man may, with a safe conscience, refuse this oath.

* "Were present," probably omitted.

† See *supra*, p. 279, note †.

Major-General Disbrowe. I think this oath both just and reasonable. My principle is for settlement, and I hope it is in your Petition and Advice provided for. If I intended, when we come again, to throw up all that we have done, and lay the legislation open again to the people, let us go with open force. It would be more ingenuous to tell his Highness we have set him up, and will pull him down again. If I would have all this, I would have us left without any tie. This is not ingenuous to bind one and let free another.

Lord Lambert. I cannot agree that this comes in by your order. I am not for any kind of oaths. I think they prove but snares.

If a man may speak his heart and thoughts to that oath before you, the swearing to these two things that are so contrary, you set up one to fight against another. Some will think that his Highness has too much power; others, that the people have too much. You will set up these two things, that will be perpetually quarrelling; I mean arguing. I hope some of us shall never see quarrelling about it.

If this go to the Parliament, it will reach to all officers of trust, justices, and the like.

This oath will go freely down with all that are not scrupulous of an oath.

This may seem to put a greater edge upon men that are conscientious, and who are settled in their consciences.

Lord Whitlock. There is a great weight in what this noble lord offers; but his argument reaches to all oaths whatsoever: for if a man's conscience do equally oblige with or without an oath, then what need more scruple at it? If it must be without an oath, then all oaths of justices of peace, and the like, are useless.

Second objection: It will be a snare to good men.

True, if it light with bad consciences, it may be a snare; with good men it cannot. If the words of the oath carry not a snare, the oath draws none. Oaths were very frequent in all ages, and members of Parliament always took an oath. The allegiance was general, the supremacy particular.

Third objection: It may be designed to make it universal.

There is no such thing appears, and it is no argument. The universality is not before you now. I should make a great difference. Are not the members of Parliament the greatest judges in England? Every man is bound by honour and honesty. Is it a less obligation to be under an oath?

It is said it is a shackle, a fetter. So it is. It is *vinculum animi*.

It is said his Highness must interpret it.

I am not of his opinion: You are the imposers of it, and must have the interpretation of it. No man is to be questioned for any thing he does in Parliament, but by Parliament. The case is famous.

The question being put,

Mr. Speaker declared for the *Yeas*.

Colonel Sydenham for the *Noes*.

Yeas 63. Lord Whitlock and Mr. Secretary, Tellers.

Noes 55, Sir Edward Rhodes and Colonel Sydenham, Tellers.

So it passed in the affirmative.

Post Meridiem.

The debate was resumed upon the report, and first proceeded upon the form of the oath for the members, which, with alterations, according to the first part of the oath for his Highness about defending the protestant religion, was agreed.

Mr. Highland moved, *contra*, that the members be sworn to maintain the privileges of Parliament.

Captain Baynes and *Colonel Sankey* seconded.

Colonel Jones and *Lord Chief-Justice Glynn*. It is submitted to your judgment, whether you need swear members to maintain their own privileges, but if you will put it, there will be no negative.

Colonel White. It is hard to define the privileges now, so I would not have members sworn. It is needless. You may as well add to his Highness's oath to maintain his own prerogatives.

Major Aston. You may as well put a question for a man

to eat his meat, and put off his clothes, and things that cannot be omitted, as to maintain his own privilege, which is his interest.

Major-General Goffe. I wonder to hear the gentleman that moved it insist so much upon having that of privileges put in the oath. Methinks he should not be so strict. It is probable, if we were sworn to maintain our privileges so strictly, we should not suffer some to sit, against those privileges.

Captain Baynes. Indentures, &c.

Resolved, the oath without that amendment.

Amendments were offered to the oath, as to the penning of it; for it was so penned as that none could sit in Parliament till all had taken the oath. The oath, thus amended, passed.*

The other part of the report, about calling the other House, was read. It was to summon the members by writ, whereas the Petition and Advice says, they shall be first approved by this House.

The Lord Deputy. It was properly moved, that it was contrary to the Petition and Advice; yet it is fit that, at your next meeting, you should have a trial of that other House, and see how your constitution will stand. Your time

* "As followeth:—That every person who now is, or hereafter shall be, a member of either House of Parliament, before he sit in Parliament shall, from and after the first day of July 1657, take an oath before persons to be authorized and appointed by your Highness and successors, for that purpose, in the form following:—

"I, A. B. do, in the presence of, and by the name of, God Almighty, promise and swear, that, to the uttermost of my power, in my place, I will uphold and maintain the True, Reformed, Protestant, Christian Religion, in the Purity thereof, as it is contained in the Holy Scriptures of the Old and New Testaments; and encourage the profession and professors of the same. And that I will be true and faithful to the Lord Protector of the Commonwealth of *England, Scotland and Ireland*, and the Dominions and Territories thereunto belonging, as Chief Magistrate thereof; and shall not contrive, design, or attempt any thing against the Person or lawful Authority of the Lord Protector; and shall endeavour, as much as in me lies, as a Member of Parliament, the preservation of the rights and liberties of the people." *Journals.*

is short; that you cannot approve them now. I shall move that the approbation and nomination may be in his Highness.

Colonel Matthews and Mr. Bampffield. This is expressly against the Petition and Advice, and against the order of Reference, and is such a trust as is not to be transferred. It is a considerable part of the privilege of the Commons. Have we not gone too far already?

Mr. Grove. I hope you would not, at first, break the Petition and Advice, yourselves.

Resolved, the first part of the clause, as to the summons.*

The second part, as to their constitution, when they are met, was read.

Colonel Jones. I move for an addition, viz. "without farther approbation;" and this is an implied power of approbation in you. Some persons will scruple to have their names scanned over here.

Mr. Godfrey. No man can, without leave, speak against the order, and you have said expressly, you will have the approbation in yourselves.

Colonel Shapcott. I think that, till you have the other House, you are not upon your right constitution. I wish we might put somewhat of a real confidence in his Highness. Divers members will come in, upon the account of right, such as have not forfeited. Whereas, men shall be tossed up and down here, and their lives ripped up. You may consider how you are constituted. You have created, and you are created, you know not how.

* "As followeth:—That your Highness would be pleased, in convenient time, before the next Meeting of this Parliament, to cause several summonses, in due form of law, to be issued forth to such persons as your Highness shall think fit, being qualified according to the humble Petition and Advice of the Parliament, whereto your Highness hath consented, to sit and serve as members in the other House of Parliament: by which summons the said persons shall be respectively commanded to be, and personally to appear, at a certain place and time, to be appointed by your Highness, to give their advice and assistance, and to do such things concerning the great and weighty affairs of this Commonwealth, as to the other House of Parliament doth appertain by the said humble Petition and Advice." *Journals.*

Colonel Sydenham. I can better agree with the gentleman's conclusion than his premises; that we should question how we came together, how created. We must stay till some lawful power come to confirm us. The second argument is against tumbling men up and down. I would have such a tumbling; and I thought you would have had such persons as would look about them, and abide tumbling and a trial. If you mean the old Lords, you had as good, indeed, rake in a kennel as tumble some of them up and down.

If such a foundation be laid, as that the old Lords shall be admitted upon the account of birth-right or privileges, I shall very much fear, what I did at first, a returning to another line. I could very well consent that his Highness should choose them: but, upon the account that the worthy gentleman moved, I fear the consequence.

Colonel Cox. It is no dishonour for the persons to be approved of here; and, but that I know the persons that brought in the Report to be persons of honour, I should suspect that they themselves hope to be named, and fear disapprobation here. I would have the approbation where you have placed it.

Major-General Disbrowe. The gentleman was much mistaken in what he said. He did not speak of any birth-right that members had, to be of the other House; but he said that some might so challenge, in regard they have not forfeited.

In point of prudence, I think it is not best to lay a foundation of heat and difference, when, by doing as is propounded to you, you can answer your ends as well as if it were in your approbation.

I have seen the experience of it, that the choosing of a Committee, by a balloting here, did so divide the House into parties, that they were never united again: I doubt this may be the consequence. Now, if we have the same confidence in his Highness that formerly we had, that he will do things for the good of the nation, we need not fear to leave it to him, seeing we have put him upon qualifications.

If his Highness should send you a list of names, and they lie before you, and some think that they ought to be named

that are left out, they will stir up obstructions in the approbation of others.

Major Audley. I was against the House of Lords, and also against the power of approbation in this House; but I am somewhat stirred up by what I heard from a worthy gentleman as to hereditary lords. I am not for such a choice, nor for any of those that went to Oxford.* But if you will have some of the old Lords, I would have this addition to the qualification, that they may sign some such Recognition as this :—

1. To approve of the death of the late King.
2. Of laying aside his family.
3. Of taking away the House of Lords.

Major Morgan. We should take measure of these lords by ourselves, who would have all ripped up from the beginning. I am diffident of my own ability to approve, and have confidence in his Highness's fitness for it: so that I can freely place it in his Highness.

Mr. Bampffield. This is most essentially the privilege of this House. It is in your Petition and Advice already, and how you can now part with it I cannot well tell. I would have this addition to your question, that the persons being so met shall be approved by this House.

Mr. Goodwin. I move to know what this other House shall be; whether it shall be an Upper or a Lower House, or one equal with yourselves?

Colonel Matthews. The words offered you, "without further approbation," are expressly against the Petition and Advice. It is also moved and seconded, that they shall be approved by this House.

This is a great business. Let us a little consider our duty, and who we act for. Are we grown so low? Shall we put a yoke and bridle upon ourselves, and have no cognizance of it? Have we not parted with such a sum as was never parted with in Parliament? and are we now parting with our power further? I beseech you that it may be considered.

* In 1642. See *supra*, pp. 55, 56.

Major Puller. I move that you would do the Petition and Advice as much honour as you did the other Instrument of Government. There no members were to sit without approbation.

Lord Fiennes. You are now to consider, if you may attain your end without putting your approbation here, if it will not do as well to omit it. Why shall we insist upon it? Formerly, those persons were called by writ; and to put this approbation upon them may seem to lessen that power that you intend them in the constitution.

Sir John Thorowgood moved against the question.

The question being put, to add the words, "without approbation of this House,"

Mr. Speaker declared for the *Yeas*.

Colonel Matthews for the *Noes*.

The *Yeas* went forth.

Yeas 90. Colonel Talbot and Captain Blackwell, Tellers.

Noes 41. Colonel Matthews and Captain Lister, Tellers.

Passed in the affirmative.

Colonel Talbot reported it by affirmatives and negatives. (Not proper.)

Colonel Cooper moved an addition, that in case any member die or be removed, the other House shall approve, &c.

This is in the body of the Petition already, so improper.

Mr. Godfrey. To second that motion; but both were mistaken.

Sir Charles Wolseley stood up and explained it.

Resolved, the second part of the clause thus amended.*

Lord Chief-Justice Glynn moved, that these words might

* "Resolved, that the said persons so summoned and assembled together, shall be, and are hereby declared to be, the other House of Parliament; and shall and may, without further approbation, from such time of their meeting proceed to do and perform all such matters and things as the other House of Parliament ought to do and perform; and shall and may have and exercise all such privileges, powers, and authorities as the other House of Parliament ought, by the aforesaid humble Petition and Advice, to have and exercise; the said humble Petition and Advice, or any thing therein contained, to the contrary thereof notwithstanding." *Journals.*



be part of the Petition and Advice, " and brought in ingrossed."

This was ordered accordingly.

Lord Chief-Justice Glynn offered from the Committee a draught of a Proclamation to be published.

As also, that the Petition and Advice be printed (omitting the 15th Article, mentioning the King).

Resolved, to agree with the Committee in this form of a Proclamation, without any debate.

The debate about printing and publishing the Petition and Advice was put off, till the explanatory Petition and Advice be ready.

The other part about the solemnity was read, about preparing Westminster Hall.

Sir Charles Wolseley doubted Westminster-hall would be too long preparing, and would rather have it done in the Painted Chamber.

Major-General Goffe and others moved for the Court of Chancery.

Major-General Disbrowe. I doubt to-morrow will be too quick. I would have a matter of this solemnity done with respectful deliberation, and not expensively. Any of the courts will serve. I would have it done on Friday; and first have an honest man to preach and pray.

Major-General Goffe. I move that a Committee wait upon his Highness with the oath and your votes this night, and then you may know how to proceed, and when the House shall wait upon him to pass some Bills; and that the same Committee that brought in the Report might attend his Highness.

Mr. Bodurda. I move that the solemnity may not be in the Chancery Court, because there was lately another government settled there, which had not such. It will not be so hard to prepare the other place.

Resolved, to agree with the Committee as to the place of the solemnity; and that *Sir Thomas Pride*, *Mr. Maidstone*, and *Captain Blackwell*, take care of this.

Upon *Sir Charles Wolseley's* motion,

Part of the Report was left out; that the Speaker shall show his Highness to the people, and make acclamation.*

It was moved, that the sword to be delivered by way of investiture might not be left out.

Mr. Dister. His Highness has a sword already. I would have him presented with a robe.

Some understood it a rope, and it caused *altum risum*. He said he spoke as plain as he could, a robe.

You are making his Highness a great prince, a King indeed, so far as he is Protector. Ceremonies signify much of the substance in such cases, as a shell preserves the kernel, or a casket a jewel. I would have him endowed with a robe of honour.

Lord Lambert. There are other solemnities and ensigns of power, as a sceptre and the like. A sword is an emblem of justice. The ceremony of the sword was laid aside without a question.†

The Lord Deputy moved, that the Bill of Attainder‡ might be read to-morrow morning, the first business.

Sir Charles Wolseley seconded it. So it was resolved.

Alderman Geldart, Sir William Strickland, Captain Baynes, and Captain Stone, moved, that the Bill for the Probate of Wills might be read now. The order of the day was to read it.

Mr. Secretary moved, that the Bill of Attainder was first seconded. So he would have that first, and the other next.

Major Audley. Unless you read one of these Bills to-night, you will not be able to read them both to-morrow.

Lord Chief-Justice Glynn and *Mr. Fowell* moved that the first business to-morrow might be the explanatory Petition and Advice.

The question was put that the Bill of Attainder be read to-morrow morning.

Captain Stone excepted for the *Noes*.

* This omission does not appear in the *Journals*.

† This discussion has no place in the *Journals*.

‡ "Of the rebels in Ireland." *Journals*.

It was the sense of the House it would spoil the other Bill reading.

Major-General Disbrowe offered a clause to Lord Broghill's Bill, which has laid these three weeks engrossed. None can give a precedent of that nature.

Captain Hatsel pressed a Report, and moved the orders of the House.

Lord Chief-Justice Glynn. It is against the orders of the House to put by another business to have his own received. I desire that you would hear that Report.

Alderman Geldart moved, that the little Bill for the river of York, no bigger than his thumb, might be now read.

Mr. Lister offered a rider to the Bill of Lord Broghill, to settle an impropriation of 300*l.* per annum, for ninety-nine years, upon Colonel Carter, for his arrears of 5000*l.*

Lord Chief-Justice Glynn strongly backed this.

Mr. Grove and *Sir William Strickland* strongly opposed it, as smelling of sacrilege, and the House had indignation for it; insomuch, that it was thought most prudent to withdraw it.

It was moved to give him 3000*l.* out of the Prize Office, in lieu or part of those arrears, but held improper to be moved till the debate upon the Bill was ordered.

Colonel Sankey offered a proviso for *Mr. Moorcock's* widow, for 100*l.* per annum, lands in Ireland.

The Lord Deputy seconded.

The motion passed; and another proviso for Colonel John Jones, for 3000*l.* worth of land in Ireland. Both which being passed, the Bill passed.

The motion was revived for Colonel Carter to have 3000*l.* out of the Prize Office. And the question being put,

Mr. Speaker declared for the Yeas.

Major-General Kelsey for the Noes. The Yeas went forth, and Colonel Carter one.

Yeas 45. Colonel Ingoldsby and Mr. Bodurda, Tellers.

Noes 43. Major-General Kelsey and Colonel Harvey, Tellers.

So it passed in the affirmative.

A letter from his Highness, to reinforce his former letter about James's and the Westmoreland regiment,* was read; but it being late, past nine, it was adjourned by candle-light ill to-morrow.

Thursday, June 25, 1657.

A Report was made from the Committee appointed to attend his Highness last night, that he will meet the House in the Painted Chamber to-morrow at twelve to pass Bills, &c.†

Resolved, that presently after the passing of the Bills, the solemnity shall be performed in Westminster-hall, according to the form voted last night.

Mr. Bacon offered the Report for Lady Worcester. ‡

Lord Lambert moved it very feelingly.

The Lord Deputy's motion to read the Bill of Attainder, thrust it out, and it was ordered to be reported the first business in the afternoon.

The Bill of Attainder was read, and several provisos passed upon it. They came in so thronging till one o'clock, that the House was forced to pass a vote that all provisos that were not now brought to the table should not be received: as they did in the case of the Bill for Excise, Customs, and Buildings; and the debate was adjourned till three o'clock.

Post Meridiem.

The House resumed the debate upon the Bill of Attainder, and several provisos were offered.

* "Touching the arrears due to his own regiment and others." *Journals.*

† "For the passing of Bills, and then to take his oath." *Ibid.*

The Report previously states, "that his Highness is well satisfied with the form of the oath; only he desires these words may be inserted, 'to the uttermost of my power and understanding,' next after the word 'Testament:' and that these words 'of the peace and safety, and' may be added in the oath, next after the word 'preservation.'" *Ibid.* See *supra*, p. 287. Note *.

‡ See *supra*, p. 102.

I offered one at Mr. Rushworth's* and Mr. Collingwood's instance, to except all children under five years of age, who claim not by descent from their ancestors, out of the penalty of this Act; so as they make out their claim within the time limited; but

Major Morgan and *Major Aston* moved against it, and the sense of the House was so, that it had not so much as a reading.

The Bill so amended, passed, and was ordered for his Highness's consent.

Mr. Secretary. Your time is short, and his Highness is to meet you to-morrow at twelve o'clock, and there is one thing material to be done before you rise. It is the explanatory Petition and Advice.

This was read accordingly.

Mr. Secretary offered a clause touching the members of Scotland, and explaining what is meant by "signal testimony." That if his Highness's Council have employed them, and they be of good conversation, they may not hereby be declared incapable. It will be a reflection on General Monk.†

Colonel Cooper moved against the clause. The proviso was large enough.

Colonel Jones. You cannot omit the clause. It will not be for your service to make all Scotland without a magistrate. It is a reflection upon your Council, and it will be made out that this does not take in old malignants.

Lord Lambert moved, that the coherentents might be read, to explain it.

Major-General Disbrowe. I move against this clause. It

* Author of the Historical Collections, who died in 1690, aged 83.

† Alluding, probably, to his first engagements in the royal cause, for which he was imprisoned in the Tower, in 1643; and to which cause he so profligately returned in 1660.

During this imprisonment, he seduced his sempstress, Nan Clarges, a blacksmith's daughter, (sister of Dr. Clarges, whose name often occurs in this *Diary*) who afterwards became his wife, and Duchess of Albemarle. See *Aubrey* in Mr. Granger's *Biog. Hist.* (1778) iv. 156.

will be a gap to let in your greatest enemies, and set a high favour upon the greatest transgressors.

Judge Lawrence. I would have this proviso taken in. It is a dangerous thing to half trust men. If they had not taken up these offices, your business had laid to the ground. They are lost as to the other party, by your employing them. Many of them are received into all places; some in the Council, some sheriffs, some justices, &c. You cannot debar the sons, and I had as well have the fathers.

Colonel Cor moved for the clause, for the very reasons used against it.

The Lord Deputy. I move against the clause. It is dangerous, for a particular favour to some persons, to let in all. The state of Scotland is to be looked upon as to the consequence, so I would have you give a check to this spirit of old malignants that is growing, and I doubt will be fatal to this nation.

Major-General Goffe. There is no need of the proviso; it is well provided for already.

Major-General Disbrowe. The Council have not meddled with putting in provosts or bailiffs; but only with justices of the peace and the like. Yet, of all the officers, not a word of a compliment ever to the Council, of any of them.

I shall lay down the necessity of the clause. You have excluded all that advised, assisted, &c. and so were taken in. If it be thus large, there will not be one left out of exceptions.

The difference in Scotland was but only about the Argyle and Hamilton families, and not out of any affection to you. The Hamilton party were the looser sort, yet some good men were drawn in; such as, I think, none in your House will say but they are honest men. The truth is, they were all a mass of Cavaliers, and unless out of this lump we can pick out the best——

If you set one of this party on horseback, they will make work for you, and raise distempers. I am unwilling to speak of it in this place, but to choose honest men out of both par-

ties. Those that you intrusted there, I dare say, would be as lothe to let in ungodly men as any. I shall say no more. This very party that are pleaded for, were those that fetched in Charles Stuart, your grand enemy. This party will not come in to you yet, but preach against those that come in to you, and excommunicate them. They refused the magistrates of Edinburgh from the sacrament, for three years; and some durst not stir out for a year, for fear of being knocked on the head for complying with you.

Judge Smith. I move some addition to the clause: "and have constantly appeared true and faithful in their trust." I know the Council are as careful of admitting persons into trust as possibly can be.

Colonel Sankey. I stand up to vindicate that party that are so much reflected upon. Did not they first own your quarrel. True they were also for the King; but this was upon the account of the covenant and conscience. I move that there be a discrimination, and that you would reject that proviso.

Colonel Stewart. If you pass that Bill, you will, at one blow, set aside all the magistrates in Scotland. Some that, haply, were not capable of serving you before, by their coming in betimes, and their constant faithfulness, are now capable.

Lord Lambert made a long speech against the clause.

The question being put, upon the second reading of the clause,

Mr. Speaker declared for the *Yeas*.

Major-General Packer for the *Noes*.

Mr. Upton went out, upon the exceptions, so that the House could not divide. He came in again, and the House was divided. The *Yeas* went forth.

Noes 66. Lord Lambert and Lord Strickland, Tellers.

Yeas 62. Lord Eure and Alderman Foot, Tellers.*

* Here the MS. book ends abruptly, leaving several blank leaves, designed, no doubt, to have been filled with the proceedings till the adjournment of the House. I have extracted the most material passages, as before, from the *Journals*.

So it passed in the affirmative ; and the petition was, upon the question, passed.

Ordered, that this petition be presented to his Highness for his consent.

Resolved, that the oath to be taken by the Lord Protector, be ingrossed in a roll of vellum ; and entry made thereupon, of the time and place of his Highness's taking the said oath ; and that the same do remain, as a record of Parliament, to be made use of in future times ; and that the said oath be also recorded in the four courts of Westminster ; viz. the Chancery, Upper-Bench, Common-Pleas, and Exchequer.

Resolved, that there be a purple robe,* lined with ermine, a bible, a sceptre, and a sword, provided for the investiture of the Lord Protector.

Friday, June 26, 1657.

Resolved, that Sir Oliver Flemmyng, Knight, Master of the Ceremonies, do, from this House, go to the several foreign ambassadors and public ministers of state, that are here, to invite them to be present at the solemnity of the investiture of his Highness the Lord Protector, this day.

A Bill, for the adjournment of this present Parliament, from the 26th of June 1657, unto the 20th of January, next ensuing, (at which time all such persons as have been duly elected and returned to serve in this present Parliament, being qualified according to the qualifications in the humble Petition and Advice, and not disabled thereby, are required to give their attendance accordingly,) was this day read the third time ; and, upon the question, passed.

Resolved, that his Highness's consent be desired to this Bill.

Ordered, that it be referred to the Commissioners for the Custody of the Great Seal of England, by and with the advice of such of the judges as they shall think necessary to call to their assistance, to prepare and frame a writ, for sum-

* See *supra*, p. 303, an imputed *lapseus linguæ*.

moning the members of the other House of Parliament, to meet at such time and place as shall be appointed by his Highness; and such writ being so agreed on, the Commissioners of the Great Seal are hereby authorized and required to seal and issue forth such writs, unto such persons, as by his Highness, under his sign manual, shall be directed and appointed.

The title of the Bill for discovering, convicting, and repressing of Popish Recusants,* and the oath therein being read,

The question being put, that this Bill be carried up, and presented at this time,

The House was divided. The *Noes* went forth.

Yeas 88. Major Beake and Major Audley, Tellers.

Noes 43. Colonel Talbot and Colonel Clarke, Tellers.

So it was resolved, that this Bill be carried up, and presented at this time.

The Serjeant brings word, that Serjeant Middleton was at the door, with a message from his Highness. And, thereupon, he was called in; and having made two obeisances to the House, when he came to the middle of the House with his mace in his hand, he declared to Mr. Speaker, that he is commanded by his Highness, the Lord Protector, to let this House know, that his Highness is in the Painted Chamber, and desires to speak with this Honourable House; and thereupon withdrew.

Which being done, Mr. Speaker, attended with the whole House, (the Clerk, with the Bills in his hand, and the Serjeant with his mace, going next and immediately before him) went up to the Painted Chamber, where his Highness, attended with his Council, was expecting. The Serjeant carried his mace upon his shoulder, up to the table; where was a chair set for the Speaker, and a form for the Clerk.

The first Bill that was presented was the humble additional and explanatory Petition and Advice of the Knights, Citizens, and Burgesses, now assembled in Parliament of this

* See *supra*, pp. 148-155, 169.

Commonwealth: which being read by the Clerk of the Parliament, his Highness gave his consent thereunto.*

* And to twenty-two other Bills, public and private; among these, "An Act for Preventing of the multiplicity of Buildings, in and about the suburbs of London, and within ten miles of the same." *Journals*.

Immediately followed, according to a publication at the time by authority, "The solemn investiture, or happy inauguration of his Highness." On this occasion, the supporters of the Protector's chair, were the ambassadors extraordinary from France and the United Provinces. Before these, the House, the Judges, Lord Mayor, &c., Mr. Speaker displayed his ingenuity, discovering, by the aid of Alexander and Aristotle, Moses and Homer, David, Solomon, and "the noble Lord Talbot, in Henry the Sixth's time," what appropriate moral lessons a sovereign might be taught by the robe, the bible, the sceptre, and the sword. According to Sir P. Warwick's *Memoirs*, (1813), p. 420, the "purple velvet robe, lined with ermines, was put on by the Earl of Warwick; a rich bible with studs of gold, presented by Whitlock, and a sceptre and a sword delivered by the Speaker," who thus proceeded:—

"When you have all these together, what a comely and glorious sight it is, to behold a Lord Protector, in a purple robe, with a sceptre in his hand, a sword of justice girt about him, and his eyes fixed upon the bible."

Mr. Speaker having concluded, and "his Highness standing thus adorned in princely state, according to his merit and dignity, looking up unto the throne of the Most High," after a commendatory prayer by Dr. Manton, "the people giving several great shouts, and the trumpets sounding, his Highness sat down in the chair of state, holding the sceptre in his hand." See *Mercurius Politicus*, No. 369; *Parl. Hist.* xxi. 152—159.

From the following passage, which serves to discover the Protector in the address of private life, it appears that this learned Presbyterian (of whom see *supra*, p. 89, note †) had before performed the office of court-chaplain on a similar occasion, unless, with an error in the date, it be the same:—

"When Cromwell took on him the Protectorship, in the year 1653, the very morning the ceremony was to be performed, a messenger came to Dr. Manton, to acquaint him that he must immediately come to Whitehall. The doctor asked him the occasion. He told him he should know that when he came there. The Protector, himself, without any previous notice, told him what he was to do; i. e. to pray upon that occasion. The doctor laboured all he could to be excused, and told him it was a work of that nature which required some time to consider and prepare for it. The Protector replied, that he knew he was not at a loss to perform the service he expected from him, and opening his study-

Post Meridiem.

The Speaker, with the members, being returned to the House ;

Ordered, that it be recommended to his Highness the Lord

door, he put him in with his hand, and bid him consider there, which was not above half an hour. The doctor employed that time in looking over his books, which, he said, was a noble collection." See "Life of Dr. Manton," (1725), p. 20, in Dr. Harris's *Lives*, (1814), iii. 4.

It might be supposed that Lord Clarendon had met with this anecdote, as occurring in 1657, for he says, most incorrectly, as the previous pages have sufficiently shown, that till the Protector "sent a message to the Parliament, they had not provided for his inauguration, nor indeed considered it." *History* (1712), iii. 597.

A few days after, the Protector was publicly announced to the city of London, as head of the government, under the new constitution. The Under-Secretary Moreland thus writes to Mr. Pell, at Zurich.

"Whitehall, 2-12th July 1657.—By the inclosed you will have an account of our yesterday's solemnities, throughout the city: the proclamation being made by the mayor and aldermen, (that is, by their officers, and they themselves being present, as likewise many of the Lords of the Council, and other persons of quality who assisted in the solemnity.) The last week was the inauguration in Westminster Hall, where the Speaker presented My Lord Protector with an imperial sceptre, a rich robe, such as the kings formerly wore, and lastly a sword, and all under the title of the Lord Protector and Chief Magistrate of the Commonwealth of England," &c. *Lansdowne MSS.* 755, No. 163.

It is remarkable that a short time before this pompous display, designed to confirm the Protector's elevation, which his courtiers probably little expected to have been so transient, he received that warning of its insecurity, the *lethalis arundo*, from the infliction of which, according to some, he never recovered. Among the Pell papers, are the title-page and preface of "Killing no Murder," with the following accompaniment from the Under-Secretary, probably the first notice of that famous production.

"Whitehall, 4-14th June, 1657.—only between you and me, there has been the most dangerous pamphlet lately thrown about the streets, that ever has been printed these times. I have sent you the preface, which is more light, but believe me, the body of it is more solid, I mean as to showing the author's learning, though the greatest rancour, malice, and wickedness, that ever man could show. Nay, I think, the Devil himself could not have shown more." *Ibid.* No. 141.

Protector, as the desire of the Parliament, that his Highness will be pleased to encourage Christian endeavours for uniting the Protestant churches abroad; and that the Lord Deputy, Lord Lambert, Mr. Secretary, Major-General Disbrowe, and Colonel Jones, be desired to present this vote to his Highness the Lord Protector.*

Resolved, that the Public Acts passed this Parliament, be printed at the public charge.

Ordered, that a collection of Public Acts and Ordinances, made in the Parliament begun and held at Westminster, the third day of November, 1640, by Henry Scobell, Clerk of the Parliament, be printed, together with such as have been passed and confirmed this Parliament.

Ordered, that it be recommended to his Highness and the Council, to take some effectual course, upon advice with the judges, for reforming the government of the Inns of Court; and likewise for placing of godly and able ministers there, and providing a sufficient maintenance for their encouragement; and also for reviving the readings† in the several Inns of Court, and the keeping up of exercise by the students there.

This House, according to the Act of Parliament in that

* It appears, from Thurloe's State Papers, that the Protector had patronized and pensioned Mr. John Dury, a friend and correspondent of Boyle; whom Dr. Birch mentions as having "spent many years in his travels, engaged in his scheme for reconciling the Lutherans and Calvinists." See "Life of Robert Boyle," (1744) pp. 77, 299.

† These appear to have been discussions of law-points by the more learned lawyers. "The first Reader of Lincoln's Inn" was appointed in 1463. "The first Reader of Gray's Inn" was John Spelman, Esq. in 1516. "Readings," says my author, (in 1708) "have continued till within about twenty years."

Among the "Orders made to be observed, in all the four Inns of Court, June 22, 1567," it was directed that "none be admitted to plead at any of the Courts of Westminster, to subscribe any action, bill, or plea, unless he be a Reader or Benchers in Court, or five years Utter Barrister." See "A New View of London," (1708) ii. 663, 696, 702.

behalf, did adjourn itself till the 20th day of January next ;*

* The Protector had, till now, retained the Chancellorship of the University of Oxford, to which he had been elected in 1650. That office was probably regarded as no longer compatible with his confirmed sovereignty. Thus, according to *Wood*, "he resigning, his eldest son, commonly called Lord Richard Cromwell, was elected into his place, and installed at Whitehall, 29th July." *Athen. Oxon.* (1692), ii. 792. Mr. Moreland writes to Mr. Pell, the day after, that "the Vice-Chancellor and six Doctors, in their robes," were deputed on this occasion.

The following passages, chiefly from the same correspondence, will serve to show, on the best authority, some of the subjects of the Protector's attention and anxiety during this adjournment, and that his sovereignty was no *sinecure* :—

"July 17.—The Council are now sworn. They are not all assembled as yet (being very many of them out of town), so that we know not what alterations will be. It is observed by some here that the Lord Lambert has not yet taken the new oath." *Lansdowne MSS.* 755, No. 165.

"July 30.—Mr. Secretary has lately taken one Colonel Saxby," (see vol. i. p. 354, *note*, and *supra*, p. 312,) an arch conspirator." *Ibid.* No. 167.

"August 10.—Yesterday morning, there was one Gardiner apprehended in Whitehall, with two pistols, charged, in his pockets, to have murdered his Highness." *Ibid.* No. 175.

"December 17.—We have taken eight Jesuits and priests, and hope to take many more. There are to my knowledge above five hundred in London." *Ibid.* No. 258.

"December 24.—The Royalists are certainly conspiring to involve us all in blood, and have their businesses very ripe." *Ibid.* No. 260.

"December 25, 1657.—This being the day commonly called *Christmas*, and divers of the old clergymen being assembled with people of their own congregating, in private, to uphold a superstitious observation of the day, contrary to ordinances of Parliament, abolishing the observation of that and other the like festivals, [see vol. i. pp. 239, 230] and against an express order of his Highness and his Privy Council, made this last week ; for this cause, and also in regard of the ill consequences that may extend to the public, by the assemblings of ill-affected persons at this season of the year, wherein disorderly people are wont to assume unto themselves too great a liberty, it was judged necessary to suppress the said meetings, and it was accordingly performed by some of the soldiery, who, at Westminster, apprehended one Mr. Thisscross, he being, with divers people, met together in private.

"In Fleet Street, they found another meeting of the same nature, where one Dr. Wilde was preacher. And, at Exeter House in the

and Mr. Speaker pronounced the same accordingly.

Strand, they found the grand assembly, which some (for the magnitude of it,) have been pleased to term the Church of England, it being (as they say,) to be found no where else, in so great and so compact a body; of which congregation one Mr. Gunning was the principal preacher, who, together with Dr. Wilde, and divers other persons, were secured; to give an account of their doings. Some have since been released, the rest remain in custody at the White Hart in the Strand, till it shall be known who they are." *Mercurius Politicus*, No. 396.

Dr. George Wilde, according to *Wood*, had been one of Laud's chaplains, and at this time, "kept up a religious meeting for the loyalists in Fleet Street." After the Restoration, "he was made Bishop of Londonderry." He died in 1665. *Athen. Oxon.* (1692) ii. 252.

Mr. Gunning, who was distinguished in the Savoy conference, and at length rewarded with the Bishoprick of Ely, where he died in 1684, was now a frequent public disputant; not only with papists, but, according to his biographer, "he found out the sectaries, and would frequently dispute with them in their several congregations; the Presbyterian, Independent, Anabaptist, Quaker, Brownist, Socinian." He printed "A Contention for Truth, in two Public Disputations, in the Church of St. Clement Danes, Nov. 26, 1657, between Mr. Peter Gunning and Mr. Henry Denne, upon Infant Baptism."

In his "congregation at the chapel of Exeter House, in the Strand, he duly performed all parts of his office according to the church of England. The Usurper often sent for him, and reproved him for this practice. It is strange that reproof was his *ratio ultima*. Whether some extraordinary regard to his person softened him, or whether he was pleased with such assembling of the Cavaliers, that he might know who were most zealous, and where to find them, we are left to guess." See "Lives of English Bishops" (1731), pp. 251, 259.

Moreland to Pell.—"December 31.—We have lately taken in hold some suspicious men in the city, which were assembled on Christmas-day, pretending to devotion, but intending really to undermine the present government. They much threaten that they will do strange things very suddenly. The Parliament will sit shortly, and then we shall have more news." *Lansdowne MSS.* 755, No. 262. See No. 274.

The following passage, "a spot of azure in a cloudy sky," may serve to discover how the Protector's confirmed greatness had tempted the English nobility to court his alliance:—

"November 12.—Yesterday was the wedding-day of his Highness's daughter, the Lady Frances, to the Earl of Warwick's grandchild; Mr. Rich. Within a month will be another, of his eldest daughter, Marie, to the Earl of Faulkenbridge." *Ibid.* No. 240.

*Wednesday, January 20, 1657-8.**

Mr. Speaker. The clerk is gone,† and you could not carry on your business without one. There is one Mr. Smythe waiting at the door, that was appointed. I desire to know your pleasure.

Colonel Cox. I move first to clear our privilege; whether we shall name or approve a clerk, or both.

* “The House, having adjourned itself by Act of the present Parliament unto this day, did this day meet and sit.” *Journals*.

Six of the Commissioners appointed by the Lord Protector, “under the Great Seal of England,” attended this day to administer the oath required (*supra*, p. 297, *note*) of all the members of Parliament. “During the time the said oath was administering to the members, the Lords Commissioners of the Great Seal came, attended with their Serjeant-at-Arms, &c.; and afterwards, taking their leave of the other Commissioners then present at the table, retired, and went to the other House.” See the forms, on this occasion, in the *Journals*.

Art. iii. of the humble Petition and Advice had provided, “that those persons who are legally chosen by a free election of the people, to serve in Parliament, be not excluded from sitting in Parliament to do their duties, but by judgement and consent of that House, whereof they are members.” See *supra*, p. 309.

Sir P. Warwick (*Memoirs*, p. 424,) describes the Protector as “being overpersuaded by the Speaker and those members in the last session who had then so submissively conformed to him, in this session to admit those whom he had then excluded.” It has, however, sufficiently appeared in the preceding pages, that the Protector had no option. If he would acquire a parliamentary confirmation of his executive power, (see *supra*, p. 494,) he was constrained to accept or reject the Petition and Advice *in toto*.

Thus, those who had been excluded at the opening of this Parliament, (See Vol. i. p. 262) as not approved by the Council, were now admitted, “about one hundred, as computed, of Cromwell’s most inveterate enemies, who had obtained great credit and interest in the House, by having been excluded for their fidelity to the Commonwealth.”

It has been further remarked, “that the Protector, when he selected out of the House of Commons those who were his ablest managers there, in order to institute his new House of Lords, had not taken care to supply their places with men equally attached to his interest.” *Parl. Hist.* xxi. 181, 194.

† Henry Scobell, who had been Clerk to the Long Parliament. See *supra*, p. 313.

Mr. Lister. I move that it be considered who has power to dispose of our places.

Colonel Matthews. We have lately all taken an oath, part whereof was to maintain the privilege of Parliament. I desire it may be debated whether we may approve a clerk, or name another.

Colonel Chadwick and *Colonel Rouse* moved to call in *Darling*, the clerk-assistant, and then to debate about the naming or approving him.

Mr. Darby. I move that a Committee be appointed to inquire of your privilege, and report in the morning. I saw, in *tertio Caroli*, where one *Wright* had a patent, and it was debated whether a clerk might be appointed without doors.

Mr. Lister. I move not to part with our privileges. We must judge of our members, much more of our clerk.

Mr. Speaker. I have known the Clerk that was appointed stand where the Serjeant does, and show his patent, and then it was unbarred, and the Clerk admitted. It was *Mr. Scobell's* case. I desire first to clear your clerk, and then to appoint a deputy.

Mr. Thistlethwaite. It is our undoubted right to choose a Clerk as well as a Speaker. It is true, *Mr. Scobell*, by force of the patent, took his place without any debate; but he was checked for it.

Colonel Grosvenor. You may, without breach of privilege, call in *Mr. Darling*, for he has a patent to be Clerk-Assistant. I desire he may be called in first, and then debate the other gentleman.

Mr. Speaker. This is but as an adjournment from Saturday till Monday. You had *Mr. Darling* attending as assistant the last day. You may call him in without a question.

Mr. Darling was called in accordingly.

Mr. Solicitor-General (Ellis). I move that you call in *Mr. Smythe*. You have had experience of him. I know not well whether it be your privilege or not to appoint the Clerk.

* Not so expressed, *supra*, p. 297, *note*.

I would have you not to take notice of the patent, but call him in upon his now deserts. Certainly none ought to come here to know your secrets without our consent.

Mr. Lister. I move first to declare that it is the undoubted right of this House to appoint our own clerk.

Mr. Thistlethwaite. To pass any such previous vote is to call in question what is your undoubted right. I would rather second the motion of Mr. Ellis, that you would take no notice of a grant or patent, but put him to the question.

The question was put in the affirmative.

Mr. Turner. By the constitution of this House, as they are now three estates, the clerk ought to be appointed by patent.

Colonel Mildmay. I move that, now it is questioned, you would consider something of your privilege in this: otherwise, I could have been contented that the question should have passed.

It was "Resolved, that this House doth make choice of John Smythe, Esq. to be clerk of this House."*

Mr. Solicitor-General moved, that when Mr. Smythe is called in, he be told that the House themselves do make choice of him for their clerk; which was said accordingly. Some thought he had had instructions to have stood a little upon his patent, but that was waived on all sides, and passed *sicco calamo*.†

Colonel Mathews. I move that the clerks be sworn to secrecy. The chief magistrates have formerly been acquainted with whatever passed here. The Parliament, in 1648, caused the clerks to be sworn.

Mr. Speaker moved, that the books of that year be brought in, to see the entries in that case.

The clerk went for them accordingly, but could not speak with Mr. Scobell.

Colonel Cox. Your order concerning Sir Harbottle Grim-

* *Journals.*

† "Mr. Smythe was called in. Mr. Speaker did acquaint Mr. Smythe that the House had commanded him to acquaint him, that this House had made choice of him for their clerk." *Ibid.*

stone's Reports* was broken ; it was a violation of your privilege. I desire the petition may be read.

The title was "To the Right Honourable the High Court of Parliament," and it was read without further debate. The substance of it was, that against the orders of the House, the book was reprinted, in bad paper, with many faults, &c. and that they called it a monopoly, and the Parliaments were so consequently.

Mr. Speaker. Upon complaint in this case, and to assert your privilege, I sent for three or four of the offenders, and bound them over to appear here the first day. There were some of them at the door even now.

Major Beake. This is no breach of privilege ; but rather a breach of the law. I would not have you to stay at the threshold, to take no order in this case. Public business must take place, and if politicians meet with such an order upon your books, it will not look well to be the *Antisignanus* of this House.

Mr. Speaker moved that a Bill be read ; but it was called on to adjourn.

* "Tuesday, June 9, 1657. Whereas, Sir Harbottle Grimstone, Baronet, hath, of late, revised and published in *English*, a book, intituled, 'The Reports of Sir George Croke, Knight, late one of the Justices of the Court of Upper-Bench, of divers Select Cases, adjudged in his time of being a Judge, briefly and judiciously collected and written by himself:' which book is lately allowed and approved of, by all the judges of England: It is therefore Ordered, by this present Parliament, that no person, other than the said Sir Harbottle Grimstone, and his assigns, or such as shall be authorized by him or them, presume to publish in print any of the said books, or any copy thereof, either in French or English." *Journals.*

Sir Harbottle Grimstone had subscribed the Solemn League and Covenant, and represented Colchester in the Long Parliament, from whence he was excluded in 1648. In this Parliament, he was one of the members for Essex, but probably not admitted before the adjournment. In "the Convention Parliament," 1660, he again sat for Colchester, and was chosen Speaker. See *Parl. Hist.* ix. 27, xxii. 214, 232. After the Restoration, he became Master of the Rolls, and appointed for his chaplain, Dr. Burnet, who frequently mentions him, in his *Own Times*. He died in 1684, aged 82.

Mr. Nathaniel Bacon. I move, that a day be appointed to supplicate for a blessing upon your endeavours, and a Committee to consider of the heads.

Mr. Darby. I heartily second that motion. Religion is the first of the four pillars of a Commonwealth. The best motion must be seconded : otherwise you cannot put a question.

Resolved, that Wednesday next be a day of humiliation in this House.

Major Beake moved, that *Mr. Calamy* may preach.

Resolved accordingly.*

* "That *Mr. Calamy* be desired to be assisting in carrying on the work of the day of humiliation in this House, and *Major Beake* is desired to give him notice thereof accordingly." *Journals.*

Edmund Calamy, an eminent presbyterian, one of the authors of *Smectymnuus*, and grandfather of the Biographer of the Nonconformists, was ejected, in 1662, from his Church of Aldermanbury. During the war, his influence in the city had been frequently employed by the Parliament, and he had spoken at the Common Hall, to excite pecuniary supplies, for avowed military operations against the King.

He, however, united with *Baxter* and other Presbyterians, in a protest against the execution of *Charles*, as abhorrent to "the principles of the Protestant religion, never yet stained with the least drop of the blood of a king," as if the blood of a peasant, shed unjustly, would not cry as loud for vengeance. Such inconsistency, in the case of *Lord Anglesey's* "sitting in judgement on the regicides," with whom he "had acted in open rebellion to his sovereign," is thus exposed by *Lord Orford*—"If a king deserves to be opposed by force of arms, he deserves death. If he reduces his subjects to that extremity, the blood spilt in the quarrel lies on him; the executing him afterwards is a mere formality." See "A Catalogue of Royal and Noble Authors," (1759), ii. 69.

"In *Oliver's* time," according to his grandson's account, "*Mr. Calamy* kept himself as private as he could, but had a considerable hand in causing things afterwards to return into their proper channel; encouraging and persuading *General Monk* to bring in the King. He preached before the Convention Parliament, the day before they voted the King home, and was one of those divines who were sent over to him into Holland;" and, as the biographer might have added, whom *Charles* cajoled, by placing them within hearing of his secret devotions. Yet, with other Presbyterians, who had sanctioned the base hypocrisy of *Monk*, and thus sacrificed the best interests of their country, to the hope of a comprehension, if not of presbyterian ascendancy, *Mr. Calamy* "soon saw whither things were tending," and thus expressed his disappointment:—

Mr. Trenchard and *Major-General Kelsey* moved for *Mr. Griffith* of the Charter-House,* to be another, and

It was resolved accordingly.†

"Having General Monk for his auditor, in his own church, a little after the Restoration, on a sacrament-day, he had occasion to speak of filthy lucre.—'And why,' said he, 'is it called filthy, but because it makes men do base and filthy things? Some men,' said he, 'will betray three kingdoms for filthy lucre's sake.' Saying which, he threw his handkerchief, which he usually waved up and down while he was preaching, towards the General's pew."

Dr. Calamy further relates, that his grandfather "lived to see London in ashes. He was driven through the ruins in a coach, and seeing the desolate condition of so flourishing a city, for which he had so great an affection, his tender spirit received such impressions as he could never wear off. He went home, and never came out of his chamber, but died within a month." See *Dr. Calamy's Account* (1713), pp. 5-7; *Continuation*, (1727), p. 8.

On the question of kingship, (see *supra*, pp. 116-119,) the name of *Mr. Calamy* thus occurs, according to the relation of *Henry Neville*, member for Reading in Richard's Parliament, and the author of *Plato Redivivus* :—

"Cromwell, upon this great occasion, sent for some of the chief city divines, as if he made it a matter of conscience to be determined by their advice. Among these was the leading *Mr. Calamy*, who very boldly opposed the project of Cromwell's single government, and offered to prove it both unlawful and impracticable.

"Cromwell answered readily, upon the first head of unlawful, and appealed to the safety of the nation being the supreme law. 'But,' says he, 'pray, *Mr. Calamy*, why impracticable?' *Calamy* replied, 'Oh, 'tis against the voice of the nation; there will be nine in ten against you.' 'Very well,' says Cromwell, 'but what if I should disarm the nine, and put the sword in the tenth man's hand, would not that do the business?' " See "A Critical Review of the Life of Oliver Cromwell," (1747,) p. 149, note. For the Protector's discussion of this subject with the swordsmen, see vol. i. pp. 382-384.

* From which he was ejected in 1662. See *Dr. Calamy's Account*, p. 51. *Wood* describes "George Griffith," as "a notorious Independent, a frequent preacher before Oliver and the Parliaments in his time, a publisher of certain sermons, preacher at the Charter-House, near London, and the same who was silenced after his Majesty's Restoration, for his high actings in the interval, and for nonconformity." *Athen. Oxon.* (1692,) li. 690.

† "And *Mr. Trenchard* is desired to give him notice thereof." *Journals*,

Mr. Speaker. The Black Rod is at the door, and has something to say to you.

He was called in accordingly, but the mace was directed to lie still upon the table.

Mr. Willoughby, being come in with the black rod, came to the middle of the room, and said,

“Mr. Speaker, his Highness is in the Lords’ House, and desires to speak with you.”*

Mr. Speaker reported it “the other House,” but was called to correct his mistake, and desired direction how to carry the mace, whether upon the serjeant’s shoulder, or to leave the mace at the door.

Mr. Highland. It was the resolution of this House, in the former debate, to go not with cap and congee, but with your mace, as formerly.†

The Speech of his Highness the Lord Protector.‡

My Lords, and Gentlemen of the House of Commons,

I meet you here, in this capacity, by the Advice and Petition of this present Parliament, after so much expence of

* “And stays for this House.” *Journals.*

† “This House, thereupon, went accordingly, to the Lords’ House, to his Highness.” *Ibid.*

‡ In this first speech of the Protector, after the Parliamentary recognition of his executive authority, with “the pomp and circumstance,” though without the style of royalty, he will be seen still to present himself, rather as *primus inter pares*, than as a sovereign. The abundant adaptation of scriptural phraseology, more in the manner of a discourse from a pulpit than of an address to a Parliament, is not peculiar to the speeches of Cromwell, but may be found in the productions of contemporary politicians, among all parties. It is quite in accordance with the taste of that and the preceding age; a taste now justly exploded, though sanctioned by the occasional practice even of Sir Edward Coke and Lord Bacon, as well as largely indulged in the parliamentary harangues of the *British Solomon*, King James; not to mention the biblical mottoes prefixed by Lord Clarendon to every book of his History. I have, also, now before me, a copy of *Iconoclastes*, printed in 1649, in which a reader, probably a divine, of that age, has written marginal notes, consisting almost entirely of scriptural quotations; thus assailing John Milton, through every chapter, with a profusion of texts, not ill suited, when removed from their connexion, to encourage the most abject and servile devotion to regal authority.

Though

blood and treasure, to search and try what blessings God hath in store for these nations.

I cannot, but with gladness of heart, remember and acknowledge the labour and industry that is past, which hath been spent upon a business worthy of the best men and the best Christians. It is very well known unto you all what difficulties we have passed through, and what we are now arrived at. We hope we may say we have arrived at what we aimed at, if not at that which is much beyond our expectations.

The state of this cause, and the quarrel; what that was at the first, you all very well know. I am persuaded most of you have been actors in it.

It was the maintaining of the liberty of these nations; our civil liberties as men, our spiritual liberties as Christians.

I shall not much look back, but rather say one word concerning the state and condition we are all now in.

You know very well, the first declaration after the beginning of this war,* that spake to the life, was a sense held forth by the Parliament, that for some succession of time, designs were laid to innovate upon the civil rights of the nations; and to innovate in matters of religion. And those very persons that a man would have thought should have had the least hand in the meddling with civil things, did justify them all; all transactions that were in pulpits, in presses, and otherwise. Which was verily thought would have been a very good shelter to them, to innovate upon us in matters of religion also; and so to innovate, as to eat out the core, and power, and heart, and life, of all religion, by bringing on us a company of poisonous popish ceremonies, and imposing

Though this speech of the Protector has found a place in the *Journals* and the *Parliamentary History*, I introduce it here to preserve the connexion of Parliamentary proceedings.

* The *Declaration* here intended, is, probably, that passed by the Lords and Commons August 2, 1642, in which they denounce "a malignant party, now in arms—for the suppression of the true religion, the laws, and liberties of this kingdom, and the power and privilege of Parliament." See Hushand's *Collection*, (1643,) p. 491; *Rushworth*, (1708,) iv. 480; *Parl. Hist.* xi. 330.

them upon those that were accounted the puritans of the nation, and professors of religion among us; driving them to seek their bread in an howling wilderness, as was instanced to our friends who were forced to fly for *Holland*, *New England*,* almost any whither, to find liberty for their consciences.

* To *Holland*, (see vol. i. p. 100, *note*.) several puritans had fled from the persecutions of Ecclesiastical Commissioners, appointed, and urged on to severities, by Elizabeth, who thus vainly hoped to accomplish her unworthy and impracticable project of a Protestant uniformity. From the vexatious exactions of James, who, without inheriting the political wisdom of the queen, had become the undoubted royal heir to her ill-directed zeal and her unfeeling despotism, an increasing number of nonconformists sought a refuge in both countries.

In New England these exiles to "an howling wilderness," under the direction of a Providence, "from seeming evil still educing good," became the founders of that republic, now offering a great example to a mighty continent, and of which the enlightened Bishop Berkeley hailed the advance, half a century before its appearance, anticipating a condition of society, of which the royal persecutor of the puritans, engrossed by his favourites, *kingcraft* and *demonology*, could not have formed an idea; a civil state—

" Where nature guides, and virtue rules;
Where men shall not impose for truth and sense
The pedantry of courts and schools."

Such were the expectations which Berkeley indulged, in his "*Verses*" on the Prospect of planting Arts and Learning in America," written in 1728; in which, says his biographer, Bishop Stock, "another age perhaps will acknowledge the old conjunction of the prophetic character with that of the poet to have again taken place."

The desire of emigration would naturally increase, to escape from the tyranny of church and state under the mis-government of Charles.

Neale says, after *Mather*, that "during twelve years of Archbishop Laud's administration, there went over about 4000 planters, carrying, in materials, money, and cattle, &c. not less than to the value of 192,000*l*;" and "that the four settlements of New England, drained England of four or five hundred thousand pounds, a very great sum in those days." *Hist. of Puritans*, (1822,) ii. 186. The following frustrated attempt to emigrate, the sequel has rendered not a little remarkable:—

"1638, April 6. His Majesty and Council taking into consideration the frequent resort to New England, 'of persons disaffected to the established religion and civil government, although for some reasons he hath

Now, if this thing hath been the state and sum of our quarrel, and of those ten years' wars, wherein we have been exercised; and that the good hand of God (for we are to attribute it to no other) hath brought the business thus home unto us, as it is stated in the Petition and Advice, I think we have all cause to bless God, and the nations have cause to bless him.

I well remember I did a little touch upon the 85th Psalm, when I spake unto you in the beginning of this Parliament,*

taken off the late restraint from merchants, passengers, and owners, and given them liberty to pursue their voyage thither, yet, knowing the factious disposition of the people in that plantation, and how unworthy they are of any support or countenance from hence, his Majesty ordered a proclamation to be drawn up, prohibiting any ship to be set forth with passengers for New England, without licence from the Lords of the Council appointed for foreign plantations." *Rushworth*, (1706,) ii. 496, 497.

"The next day an order was made in council, that the Lord Treasurer of England should take speedy and effectual course for the stay of eight ships, now in the river of Thames, prepared to go for New England, and should likewise give order for the putting on land all the passengers and provisions therein, intended for the voyage.

"In these ships were, Sir Matthew Boynton, Sir William Constable, Sir Arthur Haslerig, Mr. John Hampden, and Oliver Cromwell." See Neal's "*History of New England*," (1747,) i. 168.

"Thus," says Dr. Robertson, (*Amer. b. x.*) "Charles forcibly detained the men destined to overturn his throne, and to terminate his days by a violent death." Dr. Harris remarks, that "Cromwell or Hampden could have given little opposition to the measures of Charles in the wilds of America. In England they engaged with spirit against him, and he had reason to repent his hindering their voyage." *Lives*, (1814,) iii. 55.

There was one more probability that the misrule of Charles might have escaped the severe and sanguinary animadversions of Cromwell. It is related that on the passing of the famous Remonstrance in 1641, after a debate, according to *Whitlock*, "from three in the afternoon till ten next morning," the future Protector, then just rising into public notice, thus whispered Lord Falkland, "If the Remonstrance had not passed, I would have sold all I had, the next morning, and have never seen England more." See "*Critical Review of O. Cromwell*," (1747,) p. 14.

* September 17, 1656. The whole speech will be found, (probably printed for the first time) in the *Introduction* to Vol. I.

which expresseth well that we may say as truly and as well as it was said of old by the penman of that Psalm. The first verse is an acknowledgement to God, that he had been favourable to his land, and had brought back the captivity of his people; and that he had pardoned all their iniquities, and covered all their sin, and taken away all his wrath; and indeed, of these unspeakable mercies, blessings, and deliverances out of captivity, pardoning national sins and national iniquities; pardoning, as God pardons the man whom he justifieth, he breaks through, and overlooks iniquity; and pardoneth because he will pardon: and sometimes God pardoneth nations so; and if the enjoyment of our present peace, and other mercies, may be witnesses for God, we feel and we see them every day.

The greatest demonstration of his favour and love appears to us in this: that he hath given us peace, and the blessing of peace; to wit, the enjoyments of our liberties, civil and spiritual: and I remember well the church falls into prayer, and into praises, great expectations of future mercies, and much thankfulness for the enjoyment of present mercies; and breaks into this expression, "Surely salvation is nigh unto them that fear him, that glory may dwell in our land." In the beginning, he calls it his land; "Thou hast been favourable to thy land." Truly I hope this is his land; and, in some sense, it may be given out that it is God's land. And he that hath the weakest knowledge and the worst memory, can easily tell we were a redeemed people, (when first God was pleased to look favourably upon us,) out of the hands of popery, in that never-to-be-forgotten reformation, that most significant and greatest the nation hath felt or tasted.

I would but touch upon that, and but a touch: How hath God redeemed us, as it is this day, not only from trouble, and sorrow, and anger; but unto a blessed and happy estate and condition, comprehensive of all the interest of every member, of every individual of those mercies, as you very well see!

And then in what sense it is our land, through this grace and favour of God, that he hath vouchsafed unto us, and bestowed upon us, with the Gospel, with peace, and rest, out

of ten years' war, and given us what we would desire ! Nay, who could have forethought, when we were plunged into the midst of our troubles, that ever the people of God should have had liberty to worship God without fear of enemies ? which is the very acknowledgement of the promise of Christ, that he would deliver his from fear of enemies, that they might worship him in holiness and in righteousness all the days of their life.

This is the portion that God hath given us ; and I trust we shall for ever heartily acknowledge it. The church goes on there, and makes her boast yet further : " His salvation is nigh them that fear him, that glory may dwell in our land." His glory, not carnal, nor any thing else that accompanies this glory of a free possession of the Gospel ; this is that we may glory in. And he says further : " Mercy and truth are met together ; righteousness and peace have kissed each other."

And it shall be such righteousness as comes down from Heaven : " Truth shall grow out of the earth, and righteousness shall come down from Heaven." Here is the truth of all ; here is the righteousness of God, under the notion of righteousness, confirming our abilities, answerable to the truth that he hath in the Gospel revealed towards us : and he closeth with this : " Righteousness shall go before him, and shall set us in the way of his steps." That righteousness, that mercy, that love, and that kindness which we have seen, and have been made partakers of from the Lord : it shall be our guide to teach us to know the right and the good way, which is to tread in the steps of mercy, righteousness, and goodness, that our God hath walked before us in.

We have a peace this day. I believe in my very heart you all think the things that I speak to you this day ; I am sure you have cause. And yet we are not without the murmurings of many people, who turn all this grace and goodness into wormwood, who indeed are disappointed by the works of God. And those men are of several ranks and conditions, great ones, lesser ones, of all sorts ; men that are of the episcopal spirit, with all the branches, the root and the branches, who gave themselves a fatal blow in this place,

when they would needs make a protestation that no laws were good which were made by this House and the House of Commons in their absence, and so, without injury to themselves, cut off themselves.*

Indeed, men that know not God, that know not how to account upon the works of God; how to measure them out; but will trouble nations for an interest which is but mixt at the best; made up of iron and clay, like the feet of Nebuchadnezzar's image;† whether they were more civil or spiritual, was hard to say, but their continuance was like to be known beforehand: iron and clay make no good mixtures, they are not durable at all.

You have now a godly ministry; you have a knowing

* This Protestation was presented December 30, 1641. "A great number of persons," says *Whitlock*, "in a tumultuous manner came from the city to Westminster, where they offered many affronts and violences to divers of the bishops and others.

"The Bishops, by petition and protestation in the Lords' House, set forth this, and their own right to sit and vote in Parliament, which, by reason of those tumults and insolences, they could not do. They therefore protest against all acts and votes in their absence as null and void.

"Divers of their adversaries were much pleased with this unadvised act of the Bishops, being (as they wished) a way prepared by themselves for them to be set aside and removed from the House of Lords.

"For this, not long after, they were accused by the Commons of high treason. Glynn was the messenger. They were brought on their knees to the Lords' bar, ten of them committed to the Tower, and the other two, in regard of their age, to the Black Rod." *Memorials* (1732), p. 83.

One of these prelates, the eminent Bishop Hall, in his *Hard Measure*, describes "Glynn, with a full mouth, crying up" the protestation "for no less than high treason; and some comparing, yea, preferring it to the Powder Plot." See *Parl. Hist.* x. 143.

Lord Clarendon gives a full account of this Protestation, attributing its design and execution to Archbishop Williams. He says, that by "the indiscretion of those Bishops, swayed by the pride and passion of that Archbishop," they "gave that scandal and offence to all those who passionately desired to preserve their function, that they had no compassion, or regard of their persons, or what became of them; insomuch as, in the whole debate in the House of Commons, there was only one gentleman who spoke in their behalfs, and said, 'he did not believe they were guilty of high treason, but that they were stark-mad, and therefore desired they might be sent to Bedlam.'" *History*, (1705,) i. 355.

† *Dan.* ii. 33.

ministry ; such a one as, without vanity be it spoken, the world has not ; men knowing the things of God, and able to search into the things of God ; by that only that can fathom those things in some measure. The spirit of a beast knows not the spirit of a man : nor doth the spirit of a man know the things of God. The things of God are known by the spirit. Truly, I will remember but this one thing of those : their greatest persecution hath been of the people of God ; men of the Spirit of God, as I think very experiences will sufficiently demonstrate.

Besides, what is the reason, think you, that men slip in this age wherein we live ? As I told you before, they understand not the works of God ; they consider not the operation of his laws ; they consider not that God resisted and broke in pieces the powers that were, that men might fear him ; might have liberty to do and to enjoy all things that we have been speaking of ; which certainly God hath manifested that this was the end, and that he hath brought the things to pass. Therefore it is that men yet slip, and engage themselves against God ; and for that very cause, in the 28th Psalm, saith David, " He shall break them down, and not build them up." If, therefore, you would know upon what foundation you stand, own your foundation from God. He hath set you where you are ; he hath set you in the enjoyment of your civil and of your spiritual liberties.

I deal clearly with you. I have been under some infirmity ; therefore dare not speak further unto you, but to let you know thus much, that I have, with truth and simplicity, declared the state of our cause and attainments in it to you, by the industry and labour of this Parliament, when they last met upon this foundation, (you shall find I mean the foundation of a cause and quarrel thus attained to,) wherein we are thus estated ; I should be very glad to lay my bones with your's ; I would have done it with all heartiness and cheerfulness, in the meanest capacity that I was ever yet in, to serve the Parliament.*

* Perhaps, as a " drudge." See vol. i. p. 383.

If God give you, as I trust he will, he hath given it you ; for what have I been speaking of but what you have done ? He hath given you strength to do what hath been done ; and if God should bless you in this work, and make this meeting happy upon this account, you shall all be called the blessed of the Lord ; the generations to come will bless us ; you shall be the repairers of breaches, and the restorers of paths to dwell in. And if there be any work that mortals can attain to in the world, beyond this, I acknowledge my ignorance. As I told you, I have some infirmities upon me ; I have not liberty to speak more unto you ; but I have desired an honourable person here by me to discourse a little more particularly what may be more proper for this occasion, and this meeting.

Thursday, January 21, 1657-8.

There was a great debate about the clerk's oath, which, by the entry, appeared to be calculated for a Commonwealth, (viz. without a King or House of Lords).

It was referred to a Committee, to consider whether an oath should be administered, and what the oath should be.*

Mr. Speaker reported his Highness's speech, yesterday, in the Lords' House, and read it, as *Mr. Scobell* had taken it. For which, see the Book of Speeches, as also for Lord *Fiennes's* speech.†

* "To search what oath hath formerly been taken by the clerk of this House." *Journals*.

† This long and very *scriptural* speech is preserved entire in the *Journals*, and in the *Parl. Hist.* In his *exordium*, the speaker reminds the "Lords and Gentlemen of both the most honourable Houses of Parliament," how "Jacob, speaking to his son Joseph, said, 'I had not thought to have seen thy face, and lo, God hath shown me thy seed also ;' meaning his two sons, Ephraim and Manasseh." Thus is introduced the profound remark, that, "some years since," (till his master betrayed the Republic) "we had not thought to have seen a Chief-Magistrate again among us ; and lo, God hath shown us a Chief-Magistrate in his two Houses of Parliament." These he would have "like the form and figure of an heart, which, though triangular, is but one heart."

The

Sir Thomas Wroth. I move, that till your Committee make a report, you would, in the mean time, call in your clerk.

Mr. Solicitor-General Ellis. It is improper to call in your clerk till he has taken an oath. It is a trust, and ought not to be allowed, till an oath is taken.

Colonel Chadwick. It is hard that the clerk should be excluded for want of an oath; unless you exclude the clerk-assistant, who has not taken an oath.

Mr. Francis Bacon moved, to have it referred to a Committee, to consider of a way for maintenance of a minister at Ipswich.

Mr. Bond. That gentleman may bring in a Bill to that purpose; but it is not fit to appoint a Committee. I move, that there be a general reviving of all Committees.

Mr. Onslow moved, to revive the Committee of privileges, and that a day be appointed to bring in petitions.

Mr. Solicitor-General Ellis. I move for a general Bill for maintenance of ministers in all corporations, and to lay a tax, which cannot be without your leave.

Mr. Bacon. It is impossible to make, provisionally, a general Bill, because of the difference of abilities.

Mr. Speaker. It has been denied to bring in a general Bill.

Alderman Gibbes. I move, that if there be not an order against a general Bill, you would give leave for such a Bill. I would have a Committee appointed to consider of some such way, and leave it off if it prove unprofitable. It is time to begin to build the house of God.

Mr. Turner moved against a particular Bill, but would have a Bill to provide for all small livings.

The following is probably an attempt, vain enough, as the sequel proved, to conciliate the Republicans to Cromwell's usurpation: "Another difficulty ariseth to us, from the dissatisfaction of some of our ancient friends, who have been, and still might be useful to us in the work which we have now in hand. For those of our beloved friends who content themselves with their privacy and country retirements, in these great difficulties of the Commonwealth, 'For the divisions of Reuben there are great thoughts of heart,'" &c.: and then the learned lawyer rambles into the *Canticles*, where the reader will, probably, be willing enough to take leave of him. See *Parl. Hist.* xxi. 175, 187, 190.

Mr. Bacon. The trustees have no maintenance left to bestow upon the ministers.

Sir John Thoroughgood. There is no maintenance left; for all that provision that the Long Parliament made. There have been five hundred parishes united, and all will not do neither. Above forty or fifty petitions are lying before us, recommended by his Highness and several members, but we cannot give relief. Nothing can help better in this case, than a general Bill. A clause in the Act of the Long Parliament says, where leases expire, there the places must be made 100*l. per annum*, which spoils all the rest.

Captain Baynes. You have an order upon your books for any member to bring in a Bill to that purpose; but to force it upon people by a general Bill, will not be for your service. To lay a tax upon the people without your leave, you have rejected that.

Mr. Speaker called for the order of November, 1656, in this case, which was read.*

Mr. Solicitor-General Ellis moved to add Alderman Gibbes to the Committee.

Colonel Birch. I move for the parts in Lancashire, which have had no benefit by your maintenance. We have large parishes, sixteen miles square, and two thousand communicants, protestants, in the parish, and as many papists. There is as much need of subdivision of parishes as of uniting.

Mr. Darby. Some of us serve for counties. There has been some care taken, I see, for corporations. I remember that it was moved for a particular Bill for Yorkshire, and it was obstructed by one that had no love for it, by moving for a general Bill. I would have the Committee for religion revived; which was the first thing done always in the Parliament of England,† for so I must call it, *propter eminentiam*.

Mr. Lister moved, that the great revenue for ministers

* "November 4, 1656. Ordered, that a Committee be appointed to prepare and bring in a Bill for raising maintenance for ministers in such cities, corporations, and market-towns, where maintenance is wanting." *Journals.*

† The Long Parliament.

might not be otherwise disposed of; but that it might be employed so as every one may have a share.

Mr. Bodurda moved, that all that come may have voices.

The Committee was revived accordingly, and new members added.

Mr. Speaker and *Mr. Maidstone* moved, and it was ordered, to revive all Committees for public business.

Mr. Solicitor-General Ellis moved, that the clerk set up all Committees at the door, that every one may take notice of it.

Mr. Onslow moved again, that more members be added to the Committee of Privileges; which was done accordingly.

Mr. Gewen. I move for a convocation, or assembly of divines,* which was in all former Parliaments. For matter of government we are at a great loss. Hedges and houses stand in need of reparation; then surely churches and chapels.

This motion stood a long time still. Major Beake and Mr. Highland stood up together, and Mr. Highland was called on.

Mr. Highland. I am glad to see such care of religion; but there is not that necessity at this time for an assembly. This is but calling them from feeding their flocks. Moral things are as necessary as religious. To feed and clothe the naked and oppressed. It is religion to pay your debts. Superstition is banished. Read the 1st of Isaiah. They were full of sacrifices, but did not relieve the oppressed. Our cries are as much; and this is as much a religious duty as any. I would have some speedy course taken to pay your debts.

Major Beake. The gentleman that spoke last said, that morality was as religious as divinity. If he mean that morality, in its kind, is as good, I shall agree: otherwise, it is somewhat heterodox. I cannot understand him.

The duties of the first table ought to have the preference. He says, you will call them from their flocks. Had he been

* The Assembly, which first met at Westminster in 1643, formed the system of doctrine, worship, and discipline adopted by the English Presbyterians, and enforced to the extent of their power. It is still established in the church of Scotland. Their minutes are preserved in the Library, Red-cross Street.

as conversant with readings, I will not say with Scriptures, he would have found government a feeding as well as teaching.

There is an obligation upon you in this case, to have such a convocation. Consult your Petition and Advice, and you will find something for religion to be done by you, wherein you will not go singly by your own advice. You may reserve an authoritative judgment in yourselves. You may call from Scotland some, and from England some, to cement your differences. I therefore move that an assembly be called.

Mr. Darley. I cannot agree with that motion. There has been an assembly, who have settled the foundations, and something as to government; all in print. I have looked about, and find few fit persons in a county. Besides matter of charge; they will think much to bear it themselves. You thought fit to dissolve the last Assembly.* I will say no more.

Alderman Gibbs. I must challenge myself for being so forward to speak before my seat is warm;† but in this case I cannot sit still, but declare my opinion to third that motion.

I agree with what has been said. What the Assembly did is in print; but it is not in practice. There is an absolute necessity of government in every society; else, like the weeds amongst corn, it ‡ will destroy all. I shall not bind that form upon you; but certainly, somewhat ought to be done of that kind.

1. Ordination of ministers: but there are such differences

* The designed Bill gave place to an Ordinance of the Lords and Commons, in Parliament, for the calling of an assembly of learned and godly divines and others, bearing date June 12, 1643. They subsisted till February 22, 1648-9; having sat five years, six months, and twenty-two days, in which time they had one thousand one hundred and sixty-three sessions." Neal's *Hist. of Puritans*, (1822,) iii. 43. 413. See the names of the nobility, gentry, and clergy, nominated by the Parliament to form this assembly, in *Rushworth* (1708,) v. 123.

† William Gibbs, one of the members for Suffolk, appears to have been among those excluded at the opening of this Parliament, but who had now taken their seats, according to one of the provisions of the Petition and Advice. See vol. i. p. 202, note †.

‡ Disorder, probably, understood.

about it, that I doubt, in many places, it is altogether neglected. "How can he preach except he be sent?"*

2. That there be some outward form, which would tend much to unity. It will be of great concernment. I do heartily wish that, by a council of divines, somewhat may be considered, so that, in order to the settlement of the Commonwealth, there may be a settlement of the Church.

Mr. ———.† I move to agree with the first and last in that motion. We have strange opinions amongst us in print. Though the mists of popery be dispelled, yet a cloud of errors hangs over our heads. Nothing but a council of divines will help it.

Mr. Onslow moved, that the end of calling that assembly might be to advise the Parliament about settling matters of religion.

Major Burton. I am against that question. My reason for it is, our time will not be long enough unless we had a year's time. They sat a long time before.‡ The nation were at great charge. They did not agree about settling the church; but in fundamentals of faith, they have done as much as they can.§ The charge was not ill spent. I have heard many of them that sat, say they would never sit there again.

Colonel Matthews. They were no charge to the nation; but that you may consider in the number.

Mr. Attorney-General. Consider how you will limit them, if you call them, and whether by Act of Parliament. Besides, they are not all able to maintain themselves.

Mr. St. Nicholas. I do much wonder upon what grounds these are offered to you. I am as much sensible of the growth of errors, and would as fain have an oneness of mind as any man. Yet it has been a great satisfaction to men's spirits that they have not been imposed upon. It will look ill abroad, that you are going again to impose a government

* See *Rom.* x. 15.

† Blank in the MS.

‡ See *supra*, p. 334, note *.

§ Referring to their catechisms and confession. See vol. i. p. 376, note †.

upon men's consciences. I shall humbly move that the question be wholly laid aside.

It was moved to put it that the question be put.

Colonel Birch. I would have no negative upon your book ; so would rather wave the question till after dinner.

Mr. Drake. I am in love with the question ; but think it not well-timed now. You are settling the civil power, upon which the other government must be founded. I would have the civil power first settled.

Mr. Bodurda. Your order is to rise at twelve. I would have that be your question.

Mr. Speaker moved, not to rise and leave a debate at the midst.

Mr. Thistlethwaite. I move that no question be now put upon a matter of this consequence. It would look ill to have a negative.

So the question was waved for the present. It was this:— That an assembly of divines, from England, Scotland, and Ireland, be called together, to advise about matters of religion. The question, if the question shall be put, was put in the affirmative, but waved, *ut supra*,

And resolved upon the question to adjourn till to-morrow morning.

Friday, January 22, 1657-8.

An Act for uniting the parish churches in Huntingdon, and for the better maintenance of ministers there. Read the first time.

Mr. Pedley moved, and it was

Ordered, that it be read the second time on Tuesday morning next.

Mr. Turner reported from the Committee about the clerk's oath, in regard they could not come to the Journal Books, to find whether there was an oath, or no, formerly taken.

Resolved, that Mr. Scobell be sent to, to deliver the records and writing belonging to this House to Mr. Smythe, the clerk of this House, and that they be kept in the room over this House.

Resolved, to agree with this Committee, *nemine contradicente*.

Mr. Lechmere moved, if the words "writings and records" were comprehensive enough; and it was agreed that writings were so.

Mr. Francis Bacon moved to know who should sign this order, whether the Speaker, or clerk-assistant, or *Mr. Smythe*; and agreed *Mr. Smythe*.

Mr. Turner moved that these words be added: "and that he be required to deliver the same accordingly."

Resolved accordingly.*

Major-General Haines reported amendments to the Bill for dividing the parish and vicarage of Hornchurch and Havering, in Essex.

Resolved, to agree with the Committee.

Several of the amendments moved were to leave out letters, as s, where congregations were named. There congregation was inserted.

Mr. Bond moved for a second reading of the Bill touching marriages, and the registering thereof; and concerning births and burials;† which was read accordingly.

Mr. Harvey moved for some amendments about the appointing registers.

Sir Lislebone Long. I move for the commitment of the Bill. It is not yet so perfect as it ought to be.

1. Blanks to be filled up.

2. No proviso made for confirmation of former marriages. It is not in the affirmative, but in the negative.

3. You have not deputed any persons to declare the marriage null and void. There is no remedy, at this day, to examine the validity or invalidity of marriages.

4. I would have the power attributed to more justices than one. It should rather be done in sessions.

Serjeant Maynard. I shall not trouble you long. The law lies very loose as to things that are naturally essential to marriages, as to pre-contracts and dissolving of marriages.

* See *Journals* and *infra*, p. 348.

† See *supra*, p. 38, note †.

A case upon the former Act. A man has two lawful wives by the last confirmation of the Act. I would not have the registering wholly trusted with the parish; but rather once a year sent over to the sessions, in some standing-place to remain.

There was a case where, by rasing of a register book, a lawful marriage was vitiated, and a bad marriage ratified. It is of great necessity to prove descents and the like, which is the foundation of property, &c. and not fit to be trusted in a loose hand. I would also have a penalty annexed to persons that should so unlawfully marry.

Captain Baynes moved, that in places that are within no parishes, they may also appoint registers.

Mr. Maidstone. There is no provision of what age the parties to be married shall be.*

Major-General Haines. There is no provision for the time of choosing registers, in case they die or be removed, and that the registers may not be mean, poor fellows.

Resolved, that it be committed; and all the long robe to be of the Committee; to meet this afternoon in the Speaker's Chamber.

Major Burton moved, that the Bill for Probate of Wills may be read.

Resolved, that it be read on Monday se'nnight.

Mr. Fowell moved, that the Bill against the non-residence of masters, provosts, presidents, wardens, and heads of colleges and halls, in the Universities,† be read the second time; which was read accordingly.

Major Audley. I move that the Bill be committed. I have two exceptions:—

1. Against the preamble, as against all preambles in Bills. A good law may stand of itself. This, in a rhetorical phrase, reflects upon the masters of Houses, and says the halls are turned into counting-houses, &c.

2. The masters of Trinity and King's Colleges have liberty, by your Bill, to be non-residents, because of visiting Eton

* See the ages determined in 1653, *supra*, p. 38, note †.

† This Bill was only in progress, on the dissolution of the Parliament.

College and Westminster School. I move that they be limited to forty days, or the like.

Sir Lislebone Long. I move that the Bill rather be rejected, because it talks so much of non-residents. I thought you would have inquired how they are maintained, and how fellows are chosen; whether upon the old foundation.

If you give liberty for the masters of Trinity College, and King's College, to be non-resident, the dean of Christ-church is bound to attend as well as they. Many worthy persons in the city, that are masters of colleges, do more good by their non-residence.

Mr. Bedford. I move for consideration of their maintenance, rather, as it was moved by the worthy person that spoke last, by whom I was prevented.

Resolved, that it be committed, to meet this afternoon in the Duchy Chamber.

Mr. Speaker. The serjeant told me there were messengers at the door that desired to speak with you. The serjeant was called to report, and said there were two judges at the door, with a message from the Lords.

Mr. Darley, Mr. St. Nicholas, Mr. Mildmay, and Mr. Scot, moved, not to receive any such message from them, as Lords. They were not privy to your resolutions in this case.* They are at last but a swarm from you. You have resolved they shall be another House, but not Lords. By this it looks like children, that because they can pronounce A, they must say also B, which haply you will not like so well. Take time to debate the manner of your addresses to the other House, and of theirs to you.

Alderman Gibbes. I may say, with others that moved before me, that I am a stranger to former transactions of this House.† I do exceedingly desire a settlement of all things with as much unanimity as may be, in order to those religious expressions of his Highness in his speech.‡ I would have a conference between those of the other House and us, to under-

* Naming them "the other House." See *supra*, p. 301, *note*.

† See *supra*, p. 333.

‡ The Protector having said, "I well remember I did a little touch

stand our foundation. I am in love with old foundations of Parliaments, but not to bring it in this way. I would have some day appointed to debate this business.

Colonel Matthews. I breathe as much after a settlement of this nation as any man; but the present business before you is of that concernment, that you will not enter upon this debate without consideration. If you please, it may be the day after the fast.

Major-General Haines moved, to have the messengers called in, to know whether from the Lords. It may be the message will be from the other House. First hear them, and then debate their business.

The question being put, if they shall be called in,

Mr. Mildmay moved, to divide the House for the *Noes*.

Mr. Speaker and *Serjeant Maynard*. To divide the House without a reason, is without all reason. He ought to lay his hand on his breast, and say, on his conscience or judgment, he is not satisfied. So it was agreed, and the judges were called in: viz. Judge Wyndham* and Baron Hill.† They made three congees, and came close to the table; and then the Speaker put off his hat.

The message they were desired by the Lords to deliver, was that this House would join with them in an humble address to his Highness, for a day of public humiliation throughout the whole three nations.

They retired by three congees, and the Speaker put on his hat when they were at the bar.

upon the 85th Psalm, when I spake unto you in the beginning of this Parliament," proceeds to apply to his purpose some passages in that Psalm; assuming, with a somewhat fond nationality, not peculiar to his time, that the country he governed was specially "God's land." See *supra*, p. 324, 326.

* Hugh, "the eighth son of Sir Edward Wyndham, of Orchard and of Felbridge, Knt." He was made a Serjeant in 1654, and was now one of the Judges of the Common Bench. On the Restoration, he was again made a Serjeant, and a Judge in 1670. He died in 1684, aged 63. See Noble's *Cromwell*, i. 432—438.

† Roger Hill, "of a very ancient family in Somerset," made a Serjeant by the Protector in 1655. "The Restored Commonwealth in 1659 made him a Judge of the Upper Bench." *Ibid.* pp. 433, 434, 438.

Mr. Speaker questioned if they ought not to have left their papers.

It was agreed otherwise.

Mr. Speaker. The order was, if you were not ready with a return, that you would say you will return an answer by messengers of your own.

Mr. Lister. I move that you will return an answer by messengers of your own; and, in the mean time, debate whether you will concur in that title. You have not yet called them Lords.

Mr. Scot. I second that motion, that you would both consider of their message and the place from whence it comes.

Major Audley moved, that you will not keep the judges at the door, but tell them you will return an answer by messengers of your own.

Colonel Matthews. You cannot safely return that answer; for that is to agree them to be what they are not yet. Shall we swear one day to maintain the privileges of this House, and then violate them? There have Acts been made * to abolish such a House. It ought to be considered, if it come from such persons that we have not power to transact withal. I would have you adjourn the debate. I hope those that desire this consideration would as fain have a settlement as any man. For us, that are weak and poor spirits, I would have us consider first. Haply, others are prepared.

Major-General Haines. It can be no surprise to the House to send such a message as is moved. I perceive those judges must wait till we return an answer; and that is no fit place in which to stay them.

Mr. Harvey. We cannot allow of a message from such an authority as a House of Lords. I am one of the *post nati*.† I find three rubs upon me why I cannot consent to call them by that title:—

1. The Engagement.‡

* Feb. 6, 1648-9. See vol. i. p. 276, note *.

† Perhaps not in Parliament till after the abolition of that House.

‡ See *supra*, p. 279, note *.

2. The oath lately taken.

3. The Act of Parliament to abolish them.

I should freely concur, if it were a message from the other House. I would have this debated before you return any answer.

Major-General Kelsey. I would not have you stumble at the threshold: it will give your enemies advantage. It may appear, upon the debate, that you will not call them by that title, and in your message tell them so.

Sir Thomas Style. I may be ashamed to open my mouth, having so little experience,* but that the importance of affairs, and my conscience, binds me to speak. I conceive there is no such entity in nature as Lords. I would have you consider, whether you will send such a message as you would have done if they were a House of Lords.

Colonel Rouse. I move that you speak not of returning a message at all; but that you will consider of the message to you.

Captain Baynes. For you to send such a message, is implicitly to consent that there is such a power in co-ordination with you. I wish you would take time to consider how they call themselves "Lords." Haply, my Lord Protector does not allow them that title. I would have you call them in, and say that you will consider of the message, deferring an answer.

Major-General Boteler. The great consideration that moves me to stand up is, the waiting of the judges. I would not have your enemies, that wait for your breach, to find you stumble at the first. It will be no surprise upon you; you may debate the title after.

Mr. Rennell. I would not have this brought upon us by steps: I observed it from yourself that the message was a trial whether they were a House of Lords. The same gentleman that moved for calling the judges in, because they should not stay, would now have the answer be returned to them, because they should be gone.

* Being but lately admitted. See *supra*, p. 333. note †.

I cannot see how you can give any answer, because you have it not from the other House; you have it from Lords. Why not as well from peers, from barons, from gentlemen? haply not from gentlemen, pardon me if I call them so.

The ancient peers thought it a breach of their privileges to introduce so many new barons. This is like the little convention, who also called themselves a Parliament. Here are very wise men, whose help, I presume, you used formerly, that, when you are possessed of the debate, will contribute their help. I desire you would adjourn your debate; it being the very foundation of all, and ought to be well considered. Now is your oath at the door, in a trial.

Mr. Highland. I move to adjourn the debate for reasons before you.

Mr. Darley. I move for making this return, that you will take the message into consideration: and not speak of sending by your own messengers.

Alderman Gibbes seconded that motion, to leave out the latter part.

Sir Lislebone Long. I move for the whole question. If you do not think fit that they should be called a Lords' House, he is not worthy to sit in this House who will not tell them with courage, that you think not fit to call them a Lords' House.

Colonel Matthews. I cannot allow any return at all to this message. I have heard from old Parliament men that the judges have waited a fortnight for a return, in less matters than this. Let us not tread upon our privileges upon a matter of this weight.

Mr. Scot. I move, that as they have asserted their title of Lords, so you would assert yours, and say, that you will return an answer to the other House.

Colonel Mildmay. Though you do style them the other House, yet you do thereby acknowledge them to be the same that call themselves Lords.

Mr. Bodurda and *Sir Thomas Style* moved to leave out the words "the other House," else those are precluded that would have another title.

The question being put upon the whole question,
Mr. Speaker declared for the *Yeas*.

Colonel Rouse divided the House for the *Noes*, who went out.

Yeas 75. *Mr. Berkeley* and *Mr. Young*, Tellers.

Noes 51. *Sir Thomas Style* and *Colonel Mildmay*, Tellers.

Colonel Matthews insisted that the *Yeas* ought to go out, because it was a new business, and said, "We are not satisfied."

Mr. Speaker said he ought not to say "We." He knew what became of gentlemen for saying so.

The judges were called in, and this return was sent back by them; that we will return an answer by messengers of our own.

It was expected to be moved, for another day, to resume this debate, but it was waved.

On the hint of *Mr. Speaker* and *Captain Lilburne*,

Serjeant Maynard moved, that *Lord Craven's* business be taken up to-morrow, according to former order.*

At two, the House rose, having ordered that business for to-morrow.

The Committee for the Bill for Marriages† sate in the Speaker's chamber, this afternoon; *Mr. Nichols* (Anabaptist) had the chair.

Saturday, January 23, 1657-8.

I came in late, and questioned, from the book, what became of the Clerk's business, whom I found called in.

Lord Craven's business was then in hand, and the counsel for him at the bar, viz. *Mr. Finch* and *Mr. Allen*, and *Mr. Hartlipp*, Solicitor; where *Mr. Finch* did open the case, and managed the business with singular dexterity, wit, and applause; and, in my opinion, it is a case full of equity, and calls loudly on us for justice. It held about two hours, and

* See *supra*, p. 125, 158. † See *supra*, p. 74, note †.

then the counsel withdrew; but no counsel appeared on the other side, albeit it was so ordered.

Mr. Gewen. I move that you also *audi alteram partem*. You have two cases.

Major Burton presented a petition on behalf of the purchasers, to be heard; which was read, (Mr. Rowe, one.)

Mr. Turner moved for a day to hear his Highness's counsel, and the purchasers', and it was resolved, that Saturday next be appointed for that purpose.

Colonel Shapcott moved, to order the parties to have notice.

Serjeant Maynard. I move that, if the purchasers bring not their counsel, you proceed *ex parte*.

Major Burton offered names of persons to be of counsel for the purchasers; and they were severally put and ordered.

Colonel Mildmay. I move that, if these cannot attend, you will give leave for any other counsel to attend.

Mr. Pedley moved, and it was ordered, that the counsel on Lord Craven's part might then attend.

Mr. Scot. This is a complicated interest, and you should put your stamp upon it; it being mostly yours to appoint counsel.

Captain Hatsell. I second that motion. It is your honour that is concerned.

*Mr. ———.** I like not to hear the word "Honour" mentioned; but would go to the truth of the business.

Colonel Birch moved to bring other counsel if this fail.

Mr. Maidstone. I move, that you only appoint counsel, and let a solicitor go from you to instruct counsel.

Mr. Highland. You have done Lord Craven injury, and not the purchasers, if any injury be done. Therefore, the counsel should be your appointment.

Mr. Bacon. I would not have us led in to be a party, but regard justice and honour, though it were against the nation: so I would have none compelled to be counsel.

Colonel Holland. I move that you appoint counsel.

* Blank in MS

Mr. Rushworth. You are not obliged to appoint counsel. The Attorney and Solicitor-General are members, and so cannot be counsel. I would have all the latitude that may be. If you appoint counsel as for yourselves, it will be but jumbling a Parliament against a Parliament.

Resolved, that all the counsel named for the purchasers and the Commonwealth; viz. Serjeant Earle, Dr. Turner, &c. (five more) do attend here on Saturday next.

Resolved, at Twelve, that the House be adjourned till Monday morning at 8 o'clock.

In the Duchy Chamber, we were a long time expecting a Committee for ministers' maintenance, but were forced to adjourn. I had the chair.

In the Exchequer Chamber, sat the Committee of Privileges. Colonel Chadwick in the chair.

There was no other Committee sitting.

Monday, January 25, 1657-8.

When I came into the House, I found Sir Arthur Hazelrigge there, asking for some one to give him his oath; but a *quorum* could not be got till prayers were done, which were performed by Mr. Peters.* He said religion was left by our ancestors (as, for instance, Smithfield and latter times) hot, fiery hot; but it was now fallen into lukewarm hands.

* See vol. i. p. 244, *note* *. He appears to have been among the early detectors of Cromwell's royal ambition, from the destructive influence of which, the republic might, possibly, have been rescued by an *ostracism*, which, as Lord Bacon remarks, "eclipseth men when they grow too great; and therefore it is a bridle also to great ones, to keep them within bounds." *Essays*, (ix.)

Ludlow, speaking of "General Cromwell, after the Battle of Worcester, (1651,) which he called the crowning victory," adds, "so much was he elevated with that success, that Mr. Hugh Peters, as he has since told me, took so much notice of it, as to say in confidence to a friend, upon the road, in his return from Worcester (whither he had accompanied the army), that Cromwell would make himself king." *Memoirs*, ii. 447.

We do no boil up our religion to the height. Other nations are seeking for a general peace, whilst we, for want of an enemy, are scratching one another. They say they will come over and choose their religion, when we have agreed of a religion; and when we use our God better, they will serve him.*

Prayers being done, Sir Arthur Hazelrigge, from the bar, took Mr. Francis Bacon by the hand, and said "Give me my oath." He answered, "I dare not." Sir John Thorowgood was asked, but said he might first know the sense of the House, in regard Sir Arthur was called to the other House.

He would not presume to sit till he had taken his oath; but went out, and, in his passage, said "I shall heartily take the oath. I will be faithful to my Lord Protector's person. I will murder no man."

After a little stay in the lobby, there came four commoners to swear him, viz. Colonel Purefoy, Major Templer, Mr. Bond, and Mr. Bacon,—and Mr. Smythe, the clerk; when Sir Arthur, Mr. Sicklemore, Colonel Fitzjames, and Colonel Briscoe, were sworn together.

Sir Arthur Hazlerigge did speak the words very valiantly and openly, especially the latter part, relating to the privileges of the people† ("of England," which he added.) That done, he went in and sate close by the chair. He had been above, a good while, with Mr. Scot, James Ashe, &c.‡

* These were probably, the subjects of some exposition of Scripture which accompanied the prayer, rather than passages of a devotional service.

† See *supra*, p. 297, note.

‡ "Great expectations were raised," says *Ludlow*, "to see what course Sir Arthur Haslerigge, who had always appeared a zealous asserter of the public liberty, would take, who being chosen by the people to sit in one assembly, and by Cromwell to sit in another, (according to a summons in the form of the ancient writ directed by the kings of England to such as they called to the Lords' House,) had not yet declared his intentions in that matter.

"He came to London as privately as he could, but the court having notice of his arrival, sent Colonel Howard to feel his pulse; which he, suspecting something of that nature, avoided by going early abroad; and coming to the door of the House of Commons procured some of his

Mr. Speaker reported Lord Fiennes' speech, delivered in the other House on Wednesday last, which was very long reading; for which see the book of speeches.*

Mr. Speaker. I crave pardon if I have committed any error. I have a copy from a very good hand. I desire your pleasure in it.

Colonel Chadwick. I move from the Committee of Privileges, that two months' time more be given to bring in petitions;† because the bar upon your members‡ made some not to stick about your privileges.

Mr. Speaker. Two months is a longer time than usual; for many members have given their votes to your Acts, that must now be turned out.

Mr. Onslow and Colonel Birch seconded that motion.

Resolved, that two months' time be given to bring in petitions to the Committee of Privileges, and that they sit *de die in diem*, and that the order be set up at the door.

Mr. Turner reported from the Committee about the clerk's oath.

1. Your old servant disowns you. He does not petition, but he will treat, and represent to you. If the servant do so, what will his masters do?

2. He is settled by Act of Parliament, and *eodem modo* is the maxim of the law, and I know not why you may not require his attendance here.

3. I know not how any man can interpret more out of your Petition and Advice than is expressed concerning the other House.

The sole legislature was here, and not elsewhere; whether

friends to give him the oath. Then he took his place in the House without any dispute, as did also Mr. Scot, with divers others who had been formerly excluded by Cromwell and his council." *Memoirs*, ii. 595, 597.

Arthur Haslerigge and Thomas Scot are the two first names in the list of ninety-three Remonstrants, September 19, 1656. See vol. i. p. 262, note †.

* See *Journals*; *Parl. Hist.* xxi. 175—194; *supra*, p. 329, note †.

† "Concerning undue elections." *Journals*.

‡ See vol. i. p. 262, note †.

those records that relate to this shall be kept by this House or that, or equally divided.

The clerk has two salaries by this means ; for each clerk's place 500*l. per annum*. My motion is, that if you be not otherwise engaged, you will take up this debate.

Mr. Speaker. I move that you presently determine this cause. You will have daily occasion to use them, and you should determine who shall have the keeping of the records, whether the clerk of the other House or of this.

Colonel Shapcott. First determine what power you intend the other House ; whether they be Lords, or what you will call them ; and what part of the legislature they must have. If you take up the message from the Lords of the other day, it will bring all in debate. In the mean time, let the records remain where they are, and you may command the search.

Colonel Cor moved, that the Act of Parliament be read relating to Mr. Scobell, and his keeping the records ; which was read accordingly. Thereby it appeared he was constituted Clerk of the Parliament for his life. All the records were to be kept in the Tower, now in the possession of Mr. Brown ; and that it be appendant to the office of Clerk of the Parliament.*

Mr. Speaker. Anciently the two houses sat together.† All

* "All records, books, papers, and writings, of or concerning the Parliament of England," were to be kept in the House, then in the possession of John Browne, as clerk of the House of Peers ; "which House, together with the Tower and all other edifices and appurtenances thereunto belonging, were annexed to the office of Clerk of the Parliament." *Journals.*

† In 1332, "the Commons" appear, "for the first time," to have "separated from the Lords, and made a distinct House by themselves, though without a Speaker." The first Speaker on authentic record appears to have been Sir Peter de la Mare, in 1377. See *Parl. Hist.* I. 233, 234, 361, 362. Yet while, generally, "the Lords and Commons did sit together in one room," occasionally "the Commons were willed to withdraw themselves to their ancient place in the Chapter-house of the Abbot of Westminster, and there to treat and consult among themselves." See "The manner of holding Parliaments in England. By

the records were kept together ; but as soon as one divided, each clerk kept his own records.

Mr. Gewen. You have the interpretation of that Act, and if you please but to put it to the question that the records shall be delivered to your clerk, they will be delivered accordingly.

Mr. Attorney of the Duchy. Mr. Scobell's non-attendance has forfeited his place, and you need no Act of Parliament to repeal the Act as to that part ; and accordingly you have appointed a new clerk.

The office being gone, the custody of the records is but the consequence of the office. There needs no Act in that case neither. There is nothing but profit in the case ; and when your sense is understood by him, I hope he will be so modest as to deliver the records.

Mr. St. Nicholas. I move that you suspend this, and the other debate also, till the day of humiliation be passed, and then solemnly take it up.

Captain Baynes. First, require Mr. Scobell to attend here, and if he refuse, then you may proceed to the other question, that it may be understood whether he thinks himself to be Clerk.

Resolved, to adhere to the former order.*

Mr. Speaker acquainted the House, that he had received a letter from his Highness, which was signed your loving friend, Oliver, Protector: dated Jan. 25, 1657, directed, To our right trusty† Sir Thomas Widdrington, Speaker of our House of Commons ; and the contents, that both Houses of Parliament would meet him in the Banqueting-house, where he had something of concernment, relating to the peace of the nations, to communicate.

Sir Thomas Wroth. First, determine about the title of the other House, before you go to any business else.

Henry Elsynge, Cler. Parl." (1768,) pp. 103, 104. On "the Separation of the Houses," see "Eunomus, or Dialogues concerning the Law and Constitution of England," (1774,) iii. 63—65.

* See *supra*, p. 329.

† "And right well-beloved." *Journals.*

Resolved, that this House do attend his Highness accordingly.

Mr. Darley. I move that you consider in what posture you will attend his Highness, and whether your Serjeant shall not bear his mace upon his shoulder. I rather move that, because I heard the Serjeant say that some officers of the other House took exceptions at him for carrying the mace so before his Highness and them at the last meeting. Agreed to this motion.*

I went to dine with Mr. Speaker, and the House met again at three in the afternoon. From thence they adjourned to the Banqueting-house, and from thence hither to-morrow morning.

The House did attend his Highness accordingly, when his Highness made a very long, plain, and serious speech, relating to the state of our affairs at home and abroad, and our dangers and necessities: inviting us to unite, and not stand upon circumstances. It held till night, that we could not see to write. Mr. Speaker desired me to take notes, and Mr. Smythe and I went to York House to Mr. Rushworth, that we might confer notes; but it was so long that we could not get it ready to report it next morning.

My Lord Protector's Speech.†

My Lords and Gentlemen of the two Houses of Parlia-

* Not mentioned in the *Journals*.

† This speech, which unites the statesman with the theologian more than most of the Protector's parliamentary harangues, will now, so far as I can ascertain, be printed for the first time. In the following pages of the Diary it will appear, that, soon after the speech was delivered, the publication of it was refused, and any further application to place it on the *Journals* would be prevented by the hasty dissolution of the Parliament.

Whitlock only says, that "his Highness exhorted them to unity, and to the observance of their own rules in the Petition and Advice; and gave them a state of the public accounts, and good counsel." *Memorials* (1732), p. 672. The writers of the *Parliamentary History* (xxi. 196) say, "we have not met with it at large any where, and indeed it seems, from what followed thereupon, not to have been printed at all."

There has been preserved, however, among the *Pell Papers*, a manu-

ment, for so I must own you, in whom, together with myself, is vested the legislative power of these nations.

The impression of the weight of those affairs and interests for which we are met together, is such that I could not satisfy myself, with a good conscience, if I should not remonstrate to you somewhat of my apprehensions of the state of the affairs of these nations, together with the proposals of such remedy as may occur, to those dangers that are imminent upon us.

I conceive the well-being, yea, the being, of these nations is now at stake, and if God bless this meeting, our tranquillity and peace may be lengthened out to us, if otherwise, I shall offer it to your judgments and considerations by that time I have done, whether there be (as to men) a possibility of discharging that trust that is incumbent upon us, for the safety and preservation of these nations.

When I have told you what occurs to my thoughts, I shall leave it to such an operation on your hearts as it shall please God Almighty to work upon you.

I look on this to be the great duty of my place, as being set on a watch-tower, to see what may be for the good of these nations, and what may be for the preventing of evil, that so, by the advice of so great and wise a Council as this is, (that hath in it the life and spirit of these nations) that good may be attained, and that evil (whatever it is) may be obviated. We shall hardly set our shoulders to this work, unless it shall please God to work some conviction upon our hearts, that there is need of our most serious and best counsels at such a time as this is.

I have not prepared any such matter and rule of speech, to deliver myself unto you, as perhaps might have been more fitter for me to have done, and more serviceable for you to understand me in, but shall only speak plainly and honestly to

script copy of this speech, apparently entire, and which was, no doubt, sent at the time, with other despatches from the secretary's office, to Mr. Pell, then the Protector's resident at Zurich. Of a correct transcript from that copy (*Lansdowne MSS.* 755, No. 92), which I have collated, as to the larger part, with a MS. in the volume described vol. i. p. 370, note †, I here avail myself.

you, out of such conceptions as it hath pleased God to set upon me.

We have not been now four years and upwards in this government, to be totally ignorant of the things that may be of the greatest concernment to us. Your dangers, (for that is the head of my speech) they are either with respect had to affairs abroad, and their difficulties; or to affairs at home, and their difficulties.

You come, as I may say so now, in the end of as great difficulties and straits as, I think, ever nation was engaged in.

I had in my thoughts, to have made this the method of my speech:—to wit, to have let you see the things that hazard your being and your well-being; but when I came seriously to consider better of it, I thought (as your affairs stand) that all things would resolve themselves into very being. You are not a nation, you will not be a nation, if God strengthen you not to meet with these evils that are upon us.

First, from abroad. What are the affairs, I beseech you, abroad? I thought the profession of the Protestant religion was a thing of well-being; and truly, in a good sense, so it is, and it is no more:—though it be a very high thing, it is but a thing of well-being. But, take it with all the complications of it, with all the concomitants of it, with respect had to the nations abroad, I do believe, that he that looks well about him, and considereth the estate of the Protestant affairs, all Christendom over, he must needs say and acknowledge, that the greatest design now on foot (in comparison of which, all other designs are but low things) is, whether the Christian world should be all popery; or whether God hath a love to, and we ought to have a brotherly fellow-feeling of, the interest of all the Protestant Christians in the world; and he that strikes at but one species of a general to make it nothing, strikes at all.

Is it not so now, that the Protestant cause and interest abroad is struck at, and is, in opinion and apprehension, quite under foot, trodden down? and judge with me, I beseech you, a little, whether it be so or no. And then, I pray you, will you consider how far we are concerned in that danger, as to being.

We have known very well that that is accounted the honest and religious interest of the nation; it was not trodden under foot all at once, but by degrees, that that interest might be consumed as with a canker insensibly, as Jonah's gourd was, till it was quite withered in a night; it is at another rate now, for certainly this, in the general, the papacy, and those that are the upholders of it, they have openly and avowedly trod God's people under foot, on that very motion and account; that they were Protestants.

The money that you parted with in that noble charity that was exercised in this nation, and the just sense that you had of those poor Piedmonts,* was satisfaction enough to yourselves, of that, as a precursory thing, that if all the Pro-

* *Whitlock* says, that in "May 1655," accounts had reached England "of the Duke of Savoy's cruel persecuting the Protestants in Piedmont, by taking away their goods and estates, and putting them in prison, and carrying away their children; using all means, with violence, to make them forsake their religion." *Memorials*, (1732), p. 626.

The memorialist refers, no doubt, to the communications in the following pamphlet (1655), 4to. pp. 44, dedicated to the Protector, by J. B. Stouppe, who, probably, had translated the documents.

"A Collection of the Several Papers sent to his Highness, the Lord Protector of the Commonwealth of England, Scotland, and Ireland, containing the Bloody and Barbarous Massacres, Murthers and other Cruelties, committed on many thousands of Reformed or Protestants, dwelling in the Vallies of Piedmont, by the Duke of Savoy's forces, joined therein with the French Army and several Irish Regiments. Published by Command of his Highness." (On Stouppe, "Minister of the French Church, afterwards General," see Burnet's *Summary*, O. T. (1724,) 1, 65, &c.

Milton, as Latin secretary, wrote letters in the Protector's name, (dated *Albâ Aulâ*, May 1655,) to the Duke of Savoy, the Prince of Transylvania, the King of Sweden, the Protestant Swiss Cantons, the King of Denmark, the King of France, and Cardinal Mazarine. See "*Literæ conscriptæ a Joanne Miltoño*," (1676,) pp. 85—100, 103, 104, 108—110, 130—133. Mr. Moreland, who published, in 1658, a "*History of the Evangelical Churches of the Vallies of Piedmont*," was sent ambassador to the Duke of Savoy, and "the Protector appointed a solemn day of humiliation to be kept, and a large contribution to be gathered throughout the nation." (*Whitlock*, p. 629.) The sum raised was 38,000*l.* besides 2000*l.* immediately contributed by himself.

The Protector's last interference, in consequence of some new indic-

testants in Europe had had but that head, that head had been cut off, and so an end of all.

Is that all? No. Look how the House of Austria,* on both sides of Christendom, are armed and prepared to make themselves able to destroy the whole Protestant interest.

Is not (to begin there) the King of Hungary, who expect-

tions upon the Vaudois by the Court of Savoy, was in May 1658, a few months before his decease. Milton now wrote to the King of France, the Swiss Protestant Cantons, and Mazarine. *Literæ*, pp. 190—197.

This honourable employment of Milton's classic pen, to forward the Protector's interference in behalf of these conscientious sufferers, has been too little regarded either by republicans or royalists. Bishop Newton, indeed, does the Protector justice in a note to Milton's poems, where, with great probability, he assigns the date of these transactions to the sonnet "On the late Massacre in Piedmont."

* The following title of a small volume, now before me, published in 1657, apparently a translation from the French, written in 1644, will serve to show what subjects interested the Continental politicians of that age:—

"The Grand Differences between France, Spain, and the Empire; with their several Titles, Claims, and Pretences to each other's Dominions, discussed and stated. By an Impartial Hand. Very necessary for the clear Understanding of the present Commotions, and the Great Affairs of Europe."

This writer says, (p. 47,) that "to make up the greatness of Austria, six of the greatest Houses of Europe have met in one; Austria, Burgundy, Castilia, Arragon, Hungary, and Portugal;" the latter, however, had become an independent kingdom, in 1640, under the Duke of Braganza. He thus describes, pp. 10, 12, the territorial acquisitions of this power, to which the Protector here so pointedly refers:—

"The first prince, on the west of Europe, is the King of Spain, who bears the name of the House of Austria, besides that which he hath in Africa and the East and West Indies; besides a number infinite, of islands, capes, and havens, from the Isles Azores to the Cape of Good Hope, and from that cape to the extremity of the east, towards the Molukes and Phillippine Islands. In all that large extent of lands, the Spaniard suffereth the exercise of no religion but the Roman."

It should be recollected that South America, now so happily rescued from the ignominious misrule of Spain, and, indeed, the whole of the New World, opened to the adventure and the avarice of Europe by the discoveries of Columbus, were then comprehended among the West Indies.

eth, with his partisans, to make himself Emperor of Germany ; and in the judgment of all men, not only a possibility, but a certainty of the acquisition of it.*

Is not he, since he hath mastered the Duke of Brandenburg,† one of the electors ? and no doubt but he will have three of the Episcopal Electors, and the Duke of Bavaria.

* Ferdinand III. was elected Emperor, this year (1658).

† The royal Memorialist of the House of Brandenburg thus connects this Duke, his progenitor, with the Protector, on whom, though a fortunate military chieftain, like himself, he bestows no very courteous epithets :—

“L'Electeur pensant à la sureté de ses etats, rechercha l'amitié de Cromwell, cet usurpateur heureux, qui avoit acquis le titre de Protecteur de sa patrie, et qui ne devoit avoir que celui de 'Tyran.' *Mémoires*, (1751,) i. 88, 89. When Frederic III. received his share of territory, on the partition of Poland, of which he has been justly deemed the projector, was he not another “Usurpateur heureux ?” But he was a crowned spoiler, and “there's a divinity doth hedge a king.”

The mastery of “the Duke of Brandenburg,” to which the Protector refers, is thus explained :—

“Ferdinand III. sollicita Frédéric-Guillaume dans les termes les plus pressans à se détacher des Suédois.—L'Electeur, pressé de tous côtés, se résolut à prévenir les loix de la nécessité ; il consentit de bonne grace à ce qu'il n'auroit pû refuser, à la force d'une diversion que l'Empereur et le Roi de Dannemark étoient en état de faire dans ses etats.” *Ibid.* p. 98.

Frederic-William was no unworthy contemporary of Cromwell. During a reign of eight years, which he commenced at the age of twenty, he discovered, as described by his descendant, “les actions d'une ame forte, et d'un génie supérieur, tantôt tempérées par la prudence, tantôt portant ce caractère d'enthousiasme qui enlève notre admiration ; inépuisable en ressources sans secours étrangers ; formant ses projets lui-même, et les mettant en exécution.” *Ibid.* p. 77. He left a son, not “in his own likeness,” who became the first King of Prussia, and on whom, according to a too common court policy, was bestowed the hand, though undeserving, and incapable of engaging, the affections of the accomplished Sophia-Charlotte of Hanover, married to him at the age of fifteen. Her grandson thus contrasts the tastes and occupations of these ill-matched consorts :—

“Cette princesse avoit le génie d'un grand homme, et les connoissances d'un savant ; elle croyoit qu'il n'étoit pas indigne d'une Reine, d'estimer un philosophe. Aux pressantes sollicitations de cette princesse, se forma

Who will he have to contest with him abroad, for taking of the empire of Germany out of his hands? Is not he the son of a father, whose principles, interest, and personal conscience, guided him to exile all the Protestants out of his own patri-

à Berlin, l'Academie Royale des Sciences, dont Leibnitz fut le fondateur et le chef. On persuada à Frederic I. qu'il convenoit à sa royauté d'entretenir une Academie, comme on fait accroire à un nouveau gentilhomme qu'il est séant d'entretenir une meute de chasse. Ce roi qui avoit fondé une Académie par complaisance pour son épouse, entretenoit des bouffons pour satisfaire à sa propre inclination. La cour de la reine étoit toute séparée de l'autre. C'étoit un temple où se conservoit le feu sacré des vestales, l'azile des savans, et le siège de la politesse." *Ibid.* ii. 23, 90, 96. I am tempted to extend a digression which the subject may excuse, by bringing together the early life and the last hours of Sophia-Charlotte, who died in 1705, at the age of thirty-six; and whose talents and character, so far as I have observed, have attracted little attention from the panegyrists of her royal house; several of whose females have deserved a distinction which rank or riches would fail to bestow; now, thanks to education, the world is becoming too wise to

—"drop the man in their account,

And vote the mantle into majesty."

"Elle avoit voyagé dans sa jeunesse en Italie et en France, sous la conduite de ses parens. On la destinoit pour la trône de France; Louis XIV. fut touché de sa beauté, mais des raisons de politique firent échouer ce mariage. Cette princesse amena en Prusse l'esprit de la société, la vraie politesse, et l'amour des arts et des sciences.—Elle mourut à Hanovre dans le sein de sa famille. Une dame d'honneur qu'elle aimoit beaucoup, se fondoit en larmes: 'Ne me plaignez pas,' reprit elle, 'car je vais à present satisfaire ma curiosité sur les principes des choses, que Leibnitz n'a jamais pu m'expliquer, sur l'espace, sur l'infini, sur l'etre, et sur le néant.' Elle recommanda, en mourant, les savans qu'elle avoit protégés, et les arts qu'elle avoit cultivés, à l'Electeur son frère." *Ibid.* pp. 31, 32.

This recommendation was not ill addressed to the Elector, afterwards George I., if we are correctly informed that "it was the custom of this prince to unbend his mind in the evening, by collecting together a company of philosophical foreigners, who discoursed in an easy and familiar manner with each other, entirely unrestrained by the presence of his Majesty." See "Memoirs of Bishop Berkley" (1784), p. 21. *note.* On the Queen of Prussia's Correspondence with Father Vota, a learned Jesuit, concerning "the authority of Fathers and Councils in controversies of religion," see "Monthly Repository" (1813), viii. 579—583.

monial country, out of Bohemia, (got with the sword,) out of Moravia and Silesia ?*

It is that which is the daily complaint that comes over to us, some of which we have but received within these two or three days, being conveyed by some godly ministers in the city, that they are tossed out of Poland into the empire, and out thence whither they can fly to get their bread, and are ready to perish for want of food.†

What think you of that other side of Europe, to wit, Italy, (if I may call it the other side of Europe, as I think I may,) Spain, and all those adjacent parts, with the Grisons, Piedmonts before-mentioned; the Switzers, they all : what are they but a prey of the Spanish power and interest ?

And look to that that calls itself the head of all this, a Pope, fitted, I hope indeed born, not in, but out of due time, to accomplish this bloody work, that so he may fill up his cup to the brim, and make him ripe for judgement. He doth, as always he hath done ; he influenced all the powers, all the princes in Europe, to this very thing; and no man like this present man.‡

* *Crans*, as translated by *La Trobe*, says that, "upon the death of the Emperour Rudolph, in 1612, when the resolutions of the Council of Trent were to be put in execution against the Protestants, the Bohemians were driven to impatience, resistance by force of arms, and at last to a renunciation of their obedience to their new king, Ferdinand II.; to throw the imperial counsellors down headlong out of the windows of the castle, and to choose the Elector Palatine Frederick, for their king. But after the unfortunate battle on the Weissenberg, near Prague, in 1620, they were partly taken prisoners, and partly obliged to go into exile with him." See "History of the Brethren" (1780), p. 66.

† This distress of the Protestants in Poland, a great part of which had been conquered by the King of Sweden, Charles X., would naturally arise from his reverse of fortune, which had just now occurred, and the consequent re-establishment of the papal ascendancy.

‡ Alexander VII. In 1655, he had succeeded Innocent X., whose bull, in 1653, against the five propositions of Jansenius, (similar in substance to the five points of the Calvinists) Alexander confirmed and enforced. Thus, Jansenists would be, of Roman Catholics, the most tolerable in the estimate of Calvinistic Protestants, the majority, no doubt, of the Protector's audience, and an invective against their persecutor would be not unac-

So that, I beseech you, what is there in all the parts of Europe but a consent, co-operating at this very time and season with them, to suppress every thing that stands in their way?

But it may be said, this is a great way off, in the extremest parts of it, what is that to us? If it be nothing to you, let it be nothing to you. I have told you it is somewhat to you, and it concerns all your religion, and all the good interest of Europe.

I have, I thank God, considered. I would beg of you to consider a little more with me what that resistance is that is likely to be made to this mighty current, that is like to be coming from all parts on all Protestants. Who is there that holdeth up his head to oppose this great design? a poor prince; indeed poor, but a man in his person as gallant, and truly I think I may say as good, as any these last ages have brought forth; a man that hath adventured his all against the popish interest in Poland, and made his acquisition still good for the Protestant religion. He is now reduced into a corner, and that which addeth to the grief of all, and more than all that hath been spoken of before, (I wish it may not be too truly said) is, that men of our religion forget that, and seek his ruin.*

ceptable. The Jansenists agreed, also, with all Protestants, in denying the perfection of the Latin Vulgate. Of this they published at Mons, in 1665, a French version, with variations in the margin, according to the received Greek text.

Dr. Mosheim says of Alexander VII. Chigi, (after *Nouvelles de la Repub. des Lettres*, Oct. 1688):—"Some writers relate that, while he was in Germany, he had formed the design of abjuring popery, and embracing the Protestant religion, but was deterred from the execution of this purpose by the example of his cousin, Count Pompey, who was poisoned at Lyons, on his way to Germany, after he had abjured the Romish faith. These writers add, that Chigi was confirmed in his religion by his elevation to the cardinalship." *Eccles. Hist.* (1768), iv. 283. *Note.*

* The Protector here evidently refers to the situation of his ally, the King of Sweden, against whom his Protestant neighbour, the King of Denmark, had just declared war, in consequence of which the former led his army across the ice into Zealand, to besiege Copenhagen.

And I beseech you consider a little ; consider the consequences of that : for what doth all this signify ? Is it only a noise, or hath it only an articulate sound with it ?

Men that are not true to that religion we profess, (I am persuaded with greater truth, uprightness, and sincerity, than it is by any collected body so nearly gathered together as these nations are, in all the world;) God will find them out. I beseech you consider how things do co-operate, if this may seem but to be a design against your well-being. It is against your very being, this artifice and this complex design against the Protestant interest, wherein so many Protestants are not so right as were to be wished. If they can shut us out of the Baltic Sea, and make themselves masters of that, where is your trade ? where are your materials to preserve your shipping, or where will you be able to challenge any right by sea, or justify yourselves against a foreign invasion in your own soil.

Think upon it ; this is in design. I do believe, if you will go to ask the poor mariner in his red cap and coat, as he passeth from ship to ship, you will hardly find in any ship, but they will tell you this is designed against you : so obvious is it, by this and other things, that you are the object ; and, in my conscience, I know not for what else, but because of the purity of the profession amongst you ; who have not yet made it your trade to prefer your profit before your godliness, but reckon godliness the greater gain.

The friendship of Sweden was cultivated by the Republic and the Protectorate. It appears from *Wood*, that, in 1655, several Swedes were studying at Oxford "for the sake of the public library," besides a Dantzicker, "a Transylvanian," and "several Hungarians; some of which being poor, had commons daily allowed to them in Christchurch Hall, by the favour of Dr. John Owen, the Dean, and the then Canons of that House." *Athen. Oxon.* (1692), ii. 788, 789.

The embassies of Lord Whitlock, and the compliment offered to Christina, the *Bellipotent Virgo*, probably, of Milton, are sufficiently known. That Queen, in 1654, abdicated the royalty in favour of her cousin Charles (Gustavus) X. at the commencement of his reign, a successful warrior, though his good fortune at length deserted him. Vexation is said to have hastened his end in 1660, at the age of 37.

But should it so happen, that, as contrivances stand, you should not be able to vindicate yourselves against all whatsoever, I name no one state upon this head, but I think all acknowledged states are engaged in this combination, judge you where you are !

You have accounted yourselves happy in being environed with a great ditch, from all the world beside. Truly you will not be able to keep your ditch, nor your shipping, unless you turn your ships and your shipping into troops of horse, and companies of foot, and fight to defend yourselves *in terra firma*. And, these things saved, *liberavi animam meam*, I have told you of it : and if there be no danger in this, I have satisfied myself. I have told you ; you will judge if no danger. If you will think we may discourse of all things at pleasure, that it is a time of sleep, and ease, and rest, without a due sense of these things, I have this comfort to Godward, I have told you of it ; and really were it not that France (give me leave to say it) is a balance to this party at this time ; should there be a peace made (that hath been, and is still laboured and aimed at, a general peace,) then will England be the general object of all the fury and wrath of all the enemies of God and our religion in the world.

I have nobody to accuse ; but do look on the other side of the water. You have neighbours there, some that you are in amity with ; some that have professed malice enough against you. I think you are fully satisfied in that. I had rather you would trust your enemy, than some friends ; that is, believe your enemy, and trust him that he means your ruin, rather than have confidence in some that perhaps may be in some alliance with you. I, perhaps, could enforce all this with some particulars, nay, I could ; for you know that your enemies be the same that have been accounted your enemies ever since Queen Elizabeth came to the crown : an avowed, designed enemy, or wanting nothing of council, wisdom, and prudence, to rout you out of the face of the earth ; and when public attempts would not do, how have they, by the Jesuits and other their emissaries, laid foundations to perplex and

trouble our government, by taking away the lives of them that they judged to be of any use to preserve our peace. And at this time, I ask you whether you do not think they are designing, as busily as ever any people were, to prosecute the same counsels and things to the uttermost ?

The business was then, the Dutch needed Queen Elizabeth, of famous memory, for their protection. They had it ; I hope they will never ill-requite it ; for if they should forget either the kindness that was then showed them, which was their real safety, or the desires this nation hath had to be at peace with them, truly I believe whoever exercises any ingratitude in this sort, will hardly prosper in it. But this may awaken you. Howsoever, I hope you will be awakened upon all these considerations.

It is true ; they have professed a principle that (thanks be to God !) we never knew. They will sell arms to their enemies, and lend their ships to their enemies.* They will do so ; and truly that principle is not a matter in dispute at this time, only let every thing weigh with your spirits as it ought, let it do so. And we must tell you, that we do know that this is true. I dare assure you of it ; and that I think, if your Exchange here were but resorted to, it would let you know as much as you can desire to know, that they have hired sloops, (I think they call them, or some other name) they have hired sloops to transport upon you four thousand foot and one thousand horse, upon the pretended interest of that young man that was the late King's son.† And this

* This has been a much later charge against the Dutch, establishing the superiority of their commercial to their patriotic propensities. When Bergen-op-Zoom was besieged by the French, during the last century, it was said that their ammunition was supplied by the thrifty merchants of Amsterdam.

† The information designed to be conveyed by this sentence is not very clear: Charles Stuart appears to have been now at Bruges, subsisting on a pension from Spain, with whom the Dutch were not on terms of amity. These, the Protector, as I understand him, accuses of engaging in a profitable contract to provide ships, at the charge of Spain, to be employed in the ports of Flanders for Charles Stuart's invasion of Eng-

is, I think, a thing (so far from being reckoned a suggestion to any ill end or purpose) to no other end than to awaken you to a just consideration of your danger, and to unite to a just and natural defence.

Indeed I never did, I hope I never shall, use any artifice with you to pray you to help us with money to defend ourselves; but if money be needful, I will tell you, pray help us with money, that the interest of the nation may be defended, both abroad and at home. I will use no arguments, and thereby will disappoint the artifice of false men abroad, that say it is for money; whatsoever shall think to put things out of frame upon such a suggestion, (for you will find I will be very plain with you before I have done,) and that with all love, and affection, and faithfulness, to you and these nations.

If this be the condition of affairs abroad, I pray a little consider what is the estate of your affairs at home; and if both these considerations have but this effect, to get a consideration among you, a due and just consideration; let God move your hearts for the answering of any thing that shall be due to the nation, as he shall please; and I hope I shall not be solicitous; I shall look up to him that hath been my God and my guide hitherto. I say, I beseech you, look to your own affairs at home, how they stand.

I am persuaded you are all, I apprehend you are all, honest and worthy good men; and that there is not a man of you but would desire to be found a good patriot. I know you would. We are apt to boast sometimes that we are Englishmen; and truly it is no shame to us that we are so; but it is a motive to us to do like Englishmen, and seek the real good of this nation, and the interest of it. But I beseech you, what is our case at home? I profess I do not know well where to begin at this head, or where to end, I do not; but I must needs say, let a man begin where he will, he shall hardly be

land. Whether the English merchants, on their Exchange, are here referred to, only for information on the subject, or as partners in this shipping interest, can scarcely be determined.

out of that drift I am speaking to you. We are as full of calamities and divisions among us, in respect of the spirits of men, though, through a wonderful, admirable, and never to be sufficiently admired Providence of God, in peace. And the fighting that we have had, and the success we have had, yea, we that are here, we are an astonishment to the world; and take us in that temper we are in, or rather distemper, it is the greatest miracle that ever befel the sons of men; and whosoever shall seek to break it, God Almighty rout that man out of this nation,—and he will do it, let the pretences be what they will.

He that considereth not the woman with child, the sucking children of this nation, that know not the right hand from the left, of whom, for aught I know, it may be said, this city is as full as it is said of Nineveh; he that considereth not these, and the fruit that is like to come out of the bodies of those now living added to these; he that considereth not these, must have a Cain's heart, who was marked, and made to be an enemy to all men, and all men enemies to him; for the wrath and justice of God will prosecute such a man to his grave, if not to hell. I say, look on this nation; look on it. Consider what are the varieties of interests in this nation, if they be worthy the name of interests. If God did not hinder, all would but make up a confusion; and we should find there would be more than one Cain in England if God did not restrain; and we should have another more bloody civil war than ever we had in England. For, I beseech you, what is the general spirit of this nation? Is it not that each sort of people (if I may call them sects) whether sects upon a religious account, or upon a civil account, is not this nation miserable in that respect? What is that which possesseth every sect? What is it? That every sect may be uppermost; that every sort of men may get the power into their hands, and they would use it well; that every sect may get the power into their hands.

It were a happy thing if the nation would be content with rule; if it were but in civil things, with those that would

rule worst ; because misrule is better than no rule ; and an ill government, a bad one, is better than none. It is not that only, but we have an appetite to variety, to be not only making wounds, but as if we should see one making wounds in a man's side, and would desire nothing more than to be groping and groveling with his fingers in those wounds. This is that men would be at ; this is the spirit of those that would trample on men's liberties in spiritual respects. They will be making wounds, and rending and tearing, and making them wider than they are. Is not this the case ?

Doth there want any thing ? I speak not of sects in an ill sense, but the nation is hugely made up of them ; and what is the want that these things are not done to the uttermost, but that men have more anger than strength ? They have not power to attain their ends. And I beseech you, judge what such a company of men of these sorts are doing, while they are contesting one with another. They are contesting in the midst of a generation of men, a malignant episcopal party ; I mean, contesting in the midst of these, all united. What must be the issue of such a thing as this ? It is so.

And do but judge what proofs have been made of the spirits of these men, summoning men together to take up arms, and to exhort each sort to fight for their notions, every sort thinking they are to try it out by the sword, and every sort thinking they are truly under the banner of Christ, if they but come in and oblige upon this account.

Now do but judge what a hard condition this poor nation is in. This is the state and condition we are in. Judge, I say, what a hard condition this poor nation is in, and the cause of God in the midst of such a party of men as the Cavaliers are, and their participants, not only with respect to what these are like to do among themselves, but some of these, yea some of these, they care not who carry the goal ; nay, some of these have invited the Spaniard himself to assist and carry on the Cavalier cause.

And this is true ; and many other things that are not fit to be suggested to you, because we should betray the interest of

our intelligence. I say this is your condition ; what is your defence ? What hindereth the eruption of all this upon you irresistibly, to your utter destruction ? Truly you have an army in these parts, in Scotland, in England, and Ireland. Take them away to-morrow, would not all these interests run into one another ? I know you are rational, prudent men. Have you any frame or model of things that would satisfy the minds of men, if this be not the frame that you are now called together upon, and engaged in ? I mean the two Houses of Parliament and myself. What hinders this nation from being made an Aceldama, if this doth not ? It is without doubt ; give the glory to God, for without this it would prove as great a plague as all that hath been spoken of ; it is this, without doubt, that keeps this nation in peace and quietness.

But what is the case of this army ? a poor unpaid army, the soldiers going barefoot at this time, in this city, this weather,* and yet a peaceable people, seeking to serve you with their lives, judging their pains and hazards, and all, well bestowed in obeying their officers and serving you, to keep the peace of these nations. Yea, he must be a man that hath a heart as hard as the weather, that hath not a due sense of this. So that I say, it is most plain and evident this is your outward and present defence ; and yet, at this day, do but you judge. The Cavalier party, the several humours of unreasonable men, in these several ways, having made batteries at this defence ever since you enjoyed your peace, what have they made their business but this ? to spread libellous books, yea, and pretend the liberty of the people, which really wiser men than they may pretend ; for, let me say this to you at once, I never look to see the people of England come into a

* In " the Schedule of Debts," delivered by Richard Cromwell, " May 14, 1659," to a Committee of the restored Long Parliament, there is the following article:—

" The soldiers being unpaid, and without cloathing in the winter-time, there was advanced, for buying of coats for them, out of the monies assigned to the family, the sum of 3700*l*. *Journals*, May 25, 1659.

just liberty, if any other war should overtake us. I think, at least, that that likely to bring us into our liberty, is a consistency and agreement with this meeting. Therefore, all that I can say to you is this. It will be your wisdom (I do think truly) and your justice to keep this interest close to you, to uphold this settlement, which I have no cause to think but you are agreed to, and that you like it; for, I assure you, I am very greatly mistaken else to think that that which is now the settlement among us, is that which hath been my inducement to bear the burthen I bear, and to serve the Commonwealth in the place I am in. And therefore, if you judge that this be not argument enough to persuade you to be sensible of your danger, which, besides, good-nature and ingenuity would move a stone to be sensible of.

Therefore, give us leave to consider a little what will become of us if our spirits should go otherwise, if our spirits be dissatisfied, what will become of things? Here is an army, five or six months behind in pay; yea, an army in Scotland near as much; an army in Ireland much more. And if these things be considered, (I cannot doubt but they will be considered) I say, judge what the case of Ireland is, should free quarter come upon the Irish people. You have a company of Scots in the north of Ireland that I hope are honest men, in the province of Galloway, almost all the Irish transported to the west. You have the interest of England newly begun to be planted. The people there are full of necessities and complaints. They bear to the uttermost; and should the soldiers run upon free quarter there, upon your English planters, as they must, the English planters must quit the country through mere beggary, and that which hath been the success of so much blood and treasure to get that country into your hands, what will be the consequence but that the English must needs run away, for pure beggary, and the Irish must possess the country for a receptacle to a popish and Spanish interest?

And hath Scotland been long settled? Have not they a like sense of poverty? I speak plainly. In good earnest, I do think the Scots' nation have been under as great a suffer-

ing in point of livelihood and subsistence outwardly, as any people I have yet named to you. I do think truly, they are a very ruined nation; yet in a way (I have spoken with some gentlemen come from thence) hopeful enough yet. It hath pleased God to give that plentiful encouragement to the meaner sort in Scotland. I must say, if it please God to encourage the meaner sort, the meaner sort live as well, and are likely to come into as thriving a condition, under your government as when they were under their great Lords, who made them work for their living no better than the peasants of France. I am loth to speak any thing which may reflect upon that nation; but the middle sort of this people grow up into such a substance as makes their lives comfortable, if not better than they were before.

If now, after all this, we shall not be sensible of all those designs which are in the midst of us: of the united Cavaliers; of the designs, which are animated every day from Flanders and Spain: if we shall look upon ourselves as a divided people; a man cannot certainly tell where to find consistency any where in England. Certainly there is no consistency in any thing, that may be worthy the name of the body of consistency, but in this company that are met here. How should that man lay his hand upon his heart, and not talk of things neither to be made out by the light of Scripture nor reason, and draw one another off from considering these things. I dare leave them with you, and commit them to your bosom. They have a weight, a greater weight than any I have yet suggested to you, from abroad or at home.*

If this be our case abroad and at home, that our being and well-being (our well-being is not worth the naming comparatively), I say, if that be our case of our being abroad and at home, that through want to bear up our honour at sea, and for want to maintain that that is our defence at home, but that through our mistake we shall be led off our consideration

* Here ends the MS. in the book described Vol. i. p. 370, note †. For the remainder there is a reference to "the third book," which is lost. The speech is now concluded solely from the *Pell Papers*.

of these things, and talk of circumstantial things, and quarrel about circumstances, and shall not with heart and soul intend and carry on these things, I confess I can look for nothing. I can say no more than what a foolish book expresseth in print, of one that having consulted every thing, he could hold to nothing, like nothing; neither Fifth Monarchy, nor Presbytery, nor Independent, nothing; but at length concludes he was for nothing but an orderly confusion. And for men that have wonderfully lost their consciences and their wits, I speak of men abroad, that cannot tell what they would have, yet are willing to kindle coals to disturb others.

And now, having said this, I have discharged my duty to God and to you, in making this demonstration, and I profess to you not as a rhetorication. My business is to prove the verity of the designs from abroad, and still unsatisfied spirits of Cavaliers at home, who, from the first of our peace to this day, have not been wanting to do what they could to kindle a fire at home in the midst of us. I say, if this be so, the truth, I pray God, affect your hearts with a due sense of it, and give you one heart and mind to carry on this work, for which we are met together. If those things be so, should you meet tomorrow, and accord in all things tending to your preservation of your rights and liberties, really it will be feared, there is too much time elapsed to deliver yourselves from those dangers that hang upon you.

We have had now six years' peace, and have had an interruption of ten years' war. We have seen, and heard, and felt the evils of it, and now God hath given us a new taste of the comfort and benefit of peace. Have you not had such a peace in England, Ireland, and Scotland, that there is not a man to lift up his finger to put you into distemper? Is not this a mighty blessing from the Lord of heaven? Shall we now be prodigal of time? Should any man, shall we listen, to delusions to break and interrupt this peace? There is not any man that hath been true to this cause, as I believe you have been all, that can look for any thing but the greatest rending and persecution that ever was in the world. I wonder then how it can enter into the heart of man to undervalue these

things ; to slight peace and the gospel, the greatest mercy of God. We have peace and the gospel. Let us have one heart and soul ; one mind, to maintain the honest and just rights of this nation, not to pretend them, to the destruction of our peace, to the destruction of the nation. Really, pretend what you will, if we run into another flood of blood and war, the sinews of this nation being wasted by the last, it must sink and perish utterly. I beseech you, and charge you in the name and presence of God, and as before him, be sensible of these things, and lay them to heart. You have a day of fasting coming on. I beseech God touch your hearts, and open your ears to this truth, and that you may be as deaf adders, to stop your ears to all dissension, and look upon them, whosoever they be, as Paul saith to the Church of Corinth, as I remember,* mark such men as cause divisions and offences, and would disturb you from that foundation of peace you are upon, upon any pretence whatsoever.

I shall conclude with this. I was free the last time of our meeting, to tell you I would discourse upon a psalm,† and I did. I am not ashamed of it at any time, especially, when I meet with men of such a consideration as you are. There you have one verse that I forgot. “ I will hear what the Lord will speak. He will speak peace to his people and to his saints, that they turn not again to folly.” Dissension, division, destruction, in a poor nation under a civil war ; having all the effects of a civil war upon it. Indeed, if we return again to folly, let every man consider if it be not like our destruction. If God shall unite your hearts and bless you, and give you the blessing of union and love, one to another, and tread down every thing that riseth up in your hearts, or tendeth to deceive your own souls, with pretences of this and that thing that we speak of, and not prefer the keeping of peace, that we may see the fruit of righteousness in them that love peace and embrace peace, it will be said of this poor nation *Actum est de Angliā*. But I trust God will never leave it to such a spirit. And while I live, and I am able, I shall be ready to stand

* Rom. xvi. 17.

† See *supra*, p. p. 325—327.

and fall with you in this (seeming promising) union God hath wrought among you, which I hope neither the pride nor envy of men shall be able to dissipate and make void. I have taken my oath to govern according to the laws that are now made, and I trust I shall fully answer it. And know, I sought not this place.* I speak it before God, angels, and men, I did not. You sought me for it, and you brought me to it, and I took my oath to be faithful to the interest of these nations, to be faithful to the government. All those things were implicit in my eye in the oath, to be faithful to this government, upon which we are now met; and I trust, by the grace of God, as I have taken my oath to serve this Commonwealth on such an account, I shall, I must, see it done according to the articles of the government; that, thereby, liberty of conscience may be secured for honest people, that they may serve God without fear; that every just interest may be preserved; that a godly ministry may be upheld, and not affronted by seducing and seduced spirits; that all men may be preserved in their just rights, whether civil or spiritual: upon this account did I take oath, and swear to this government. And so, having declared my heart and mind to you in this, I have nothing more to say but to pray God Almighty bless you.†

Tuesday, January 26, 1657-8.

I was all the morning with the Trustees, assisting Mr. Clapham against the Major-General, about the Union of

* See *supra*, vol. i. pp. 383, 414. Some of this Parliament well understood that Cromwell had "sought not" to be so much a Lord Protector; governing, in his highest style of authority, in the name of the Commonwealth thus; as a King, ruling in the style of regal independence, and becoming the founder of a new dynasty.

† Since the first part of this speech passed through the press, I have observed, at the end of one of the MS. books, the rough notes mentioned *supra*, p. 351. These have every appearance of having been written under the circumstances which the writer of the Diary describes; yet a few of the sentences are sufficiently legible to confirm the identity of the speech.

George's and Mary's in Stamford. High words. What the issue will be, *sub judice lis est*.

Mr. Lechmere argued exceedingly well for Mr. Clapham, against the union. Whalley, Haines, Butler, Blake, and Weaver, strongly for it.

I saw Baron Thorp take his oath this morning, at his coming into the House.

A Bill for the uniting of four churches in Huntingdon into one was read.

The Bill for regulating Yorkshire Cloth was read the second time.*

Captain Baynes, (who first brought it in) Lord Lambert, Baron Thorp, and Mr. H. Darley, strongly moved for a commitment, but it would not be.† It was moved for a general Bill of this nature.‡

Several other businesses passed, for which see Journals.

The House rose at one o'clock.

In the afternoon, the Committee of Privileges sat in the Exchequer Chamber; Mr. Chadwick in the chair.

In the Inner Court of Wards, the Committee for Ministers' Maintenance. Mr. Scot in the chair. Adjourned till Friday.

Wednesday, January 27, 1657.

The House, according to former order, met to keep a day of public humiliation. The exercises began at ten o'clock, and held till half an hour past five.§

* See vol. i. p. 126.

† "It passed with the negative." *Journals*.

‡ "Ordered, that it be referred to a Committee for Trade, to consider of all the Acts of Parliament made concerning drapery, in order to the altering or confirming the same; and to offer what they shall think fit to the House for the regulating the manufacturers of cloth, and the true making thereof throughout the nation." *Ibid*.

§ The sermons at this period were very long, especially on public occasions. Thus Dr. Barrow occupied "three hours and an half" in delivering his famous Spital Sermon, "On the Duty and Reward of Bounty to the Poor." See *Brit. Biog.* vi. 322.; *Biog. Brit.* i. 637.

Mr. Calamy's* text was *Isaiah* ix. 12.

Mr. Griffith's† text was *2 Chronicles* xx.

Both were very good sermons. The first smelled Presbyterian; the other was for church government, but against imposing spirits; and it tasted a little of Court holy water. The first professed himself never to have been a Court flatterer.

The exercises being done, it was moved that the ministers have the thanks of the House, and that they print their sermons, &c.

Mr. Scot and *Major-General Haines* were against their being printed, because preached within ourselves.

It was then moved for a collection for the poor, and agreed without putting any question.

Mr. Speaker said, he hoped he need not put a question upon it.‡

Major Audley, and *Alderman Gibbes* and others, moved that speedy course be taken for ministers' maintenance, especially in Wales and the northern parts, which *Mr. Griffith* complained of much in his sermon, especially for poor Wales.

* See *supra*, p. 320, *note*. When "Monk had taken up his quarters in the city," while maturing his treachery in favour of Charles Stuart, though he "continued to make solemn protestations of his affection and fidelity to the Commonwealth-interest," *Ludlow* "resolved to make him a visit," and "was admitted, when Monk had taken leave of *Mr. Edmund Calamy*, and others of the clergy," with whom he had been "conferring in a private gallery." *Memoirs*, ii. 832, 833, 878.

† See *supra*, p. 321, *note* *.

‡ It was "Ordered; and that *Mr. Darnall*, the clerk-assistant, do attend near the door within the House, to receive the same as the members pass out." *Journals*. The following Orders are among the Parliamentary provisions for the poor:—

"Dec. 4, 1640.—Any member not taking a place upon his entering the House, or going from it to the disturbance of the House, or speaking aloud to hinder business, to pay One Shilling, to be divided between the serjeant and the poor.

"Feb. 14, 1643.—Such members as come after nine o'clock, to pay One Shilling to the poor." *Parl. Guide* (1784), pp. 453, 456.

Thursday, January 28, 1657-8.

I was with my Lord Howard all the morning, about Sir Robert Collingwood's business.*

His Highness's speech was reported; and it was moved that his Highness be desired to give leave for the printing of it; and a Committee was appointed to attend his Highness for that purpose, viz. Sir Arthur Haslerigge, &c.

Mr. Trevor. I move that you also add, that you will take it into serious consideration.

It was further moved, that his Highness would deliver the paper he spoke of, relating to the account of disbursements.

Mr. Scot. What you do in the business of monies may come freely from this House, without any invitation from any person whatsoever without doors. I speak it without fear or disrespect.

Alderman Gibbes and Mr. Darley. By the rule of Parliament, the grievances of the people ought to be preferred, and then monies: viz. to settle that about the probate of wills† and matters of religion; then will the people more cheerfully open their purses, and will tend to unity.

Mr. Bedford. Take an account of your monies, and if you find them well employed, you may be encouraged to give more monies, if there be occasion.

Mr. St. Nicholas. I move that those that were authors and advisers, in keeping out the members by a long sword,‡ may be called to an account, that hereafter it may not be drawn into precedent; and that men's persons may not be restrained or imprisoned, *sine judice parium*,§ or sent beyond

* See *supra*, p. 220, note §. p. 271, note †.

† See vol. i. p. 8, note †, Vol. ii. p. 283.

‡ This Speaker was one of those who, at the first meeting of the Parliament, Sep. 17, 1656, "offering to go into the House, were, at the lobby-door, kept back by soldiers." His name is among the ninety-three who remonstrated on the occasion. *Parl. Hist.* xxi. 26, 37. See vol. i. p. 262, note †.

§ By a High Court of Justice, or the Council, instead of the verdict of a jury; and thus, without the judgment of their Peers.

seas. It may be any of our cases. And further, I move that you set yourselves to the business of settling the people's liberties in this and other points, and exclude all private business for a month.

Colonel Rouse seconded the motion to exclude private business for a month.

Colonel Shapcott. I move that you exclude not Lord Craven's business.

Resolved, that the Committee do also acquaint his Highness that the House will take the matters imparted to them in his speech, into speedy and serious consideration; and that they desire him to communicate the paper to them, relating to the charge and debts.

Mr. Moody seconded the motion to exclude private business for a month.

Colonel Lister moved, that it be ordered without a motion.

Mr. Onslow moved, that Lord Craven's business be excepted.

Mr. Bond. If you admit of Lord Craven's business, other business will expect to be read; Sir John Stowel's, Lady Powell's, Lord St. John's.

Alderman Gibbs. It will not do much harm to except one private business. As you have gone a little way in Lord Craven's business, dispatch it, and make your order with that exception.

Mr. Speaker. There is an old gentleman, one Sir Robert Collingwood, which you have sent for two hundred miles. I hope you will not keep him a month in town.

Sir Anthony Ashley Cooper. Your general orders breed more debate than would dispatch a private business; so I would have no question put.

Sir Arthur Haslerigge. We had it yesterday hinted by one of our prophets,* that we must live long in a little time; and we know not how long we may sit. It may be questioned whether we shall sit a fortnight. We may be all dead. It is hard that we should not have a month to do all this busi-

* The two preachers.

ness that is behind. It is not building this or that House that will do. Unless your foundation be sure, I assure you it will not do your work. Princes are mortal, but the Commonwealth lives for ever. It is posterity we must respect ; as his Highness tells us, the young children in the womb of their mothers.*

I sat with a sad heart in the place in the gallery, where I have sat seventeen years before, to hear the minister say nothing of what that victorious Parliament did for the ministers, by that large allowance given them, and other great things done by that Parliament. I cannot sit still and hear such a question moved, and bide any debate.

Mr. Scot said he could not sit still, but second such a motion, to hear one speak so like an Englishman ; to call it a victorious Parliament.

Mr. Gwyn moved, to except Lord Craven's business.

Major-General Boteler moved, to exclude that business also. It will take a month's time, and I have heard some of the persons concerned say they intended to move for longer time.

Mr. Bodurda moved, to set Saturday apart for private business, and exclude it for all the other five days.

Mr. Speaker again moved, that Sir Robert Collingwood be called in, and

His paper was read, and he being not ready at the door,

Mr. Speaker excused him. He was sick and could not stay ; but you must wink at it some morning : it will take no time.

The question being put, that no private business be admitted for a month.

Mr. Speaker declared for the *Yeas*.

Mr. Bacon declared for the *Noes* ; and directed the *Noes* to go out.

Mr. Onslow. The *Yeas* must go out, because it is a new business. Agreed after by *Mr. Speaker*.

* See *supra*, p. 364.

Yeas 92, went out. Sir Arthur Haslerigge and Colonel Lister, Tellers.

Noes 84. Mr. Onslow and Mr. Nichols, Tellers.

So it was resolved in the affirmative.

Major Beake. There is a necessity of taking that point into consideration, about the title of the other House; which you have by your Petition and Advice joined in the co-ordinate power with you in passing of laws. I shall also leave it to your consideration if you will do any thing in relation to what is twisted in it, the title of the supreme magistrate. Which you will debate first I leave to you, and move that it may be taken up to-morrow morning.

Colonel Shapcott. I second that motion, that those two great things may be your serious debate. It was never known that there were two Houses of Commons. If they be not an House of Lords, you cannot be a House of Commons. If God should bless us in a right understanding about the other title, other things would fall in course. I move that you take it up to-morrow.

Mr. Weaver. I should support that motion, if I thought it would answer the end of obviating the dangers which his Highness mentions in his speech; and that you would consider of what may be grateful to the people; and that you would suspend the title of the other House, and let them go on with the power you have given them. None will interrupt them; and if you will add any more, you may. But as to that of power co-ordinate with you, it will bide some debate before that be yielded.

We know with what difficulty good laws passed the natural lords in former times. It is fit we, that were not privy to your debates upon which you made those resolutions,* should have the liberty to debate it over again. I move that you first take into consideration the matters of his Highness's speech.

Mr. Drake. There can be no greater expedient to obviate

* He was one of the excluded members. See *supra*, p. 374, note †.

those dangers his Highness speaks of, than by coming to a settlement. I fear me, those that hold this, aim to shake off Parliamentary government, and to bring us under an arbitrary power. My motion is that you take up this debate to-morrow morning.

Mr. Speaker drew up and read a question to this purpose, and was going to put it.

Mr. Scot. You are now moved to a dissolution of your settlement, both as to the names of your supreme magistrate and the other House, even by those that were for it; and not by any of us. Why must we have it unsettled? What defence will a name above another name give you?

He was going on, and was taken down by Colonel Carter; but this was held improper by Mr. Weaver and Mr. Speaker.

Mr. Scot went on, and said, I am never more willing to speak than the House is to hear me, knowing my own insufficiency. You were pleased to come to resolutions in the absence of scores, hundreds of your members excluded;* and I cannot avoid saying we thought it to be not proper, yet you know those were done *ex parte*.

I rather move that you let this debate alone till all your members be come in. If you please, that the House may be called over, else those that come in afterwards will not be privy to the grounds upon which you come to that resolution.

Mr. Trevor. Take your rise of this debate from the question which you were upon before, about the message to the other House, which will lead you into the whole; and if you please to alter the other title, I shall not disagree.

Major-General Kelsey. It is properly moved you to take up the debate about the answer to the other House, and that will lead you into the whole.

Sir Anthony Ashley Cooper. That is the properest motion. You would not make a complicated and perplexed question. Some are neither for another House, nor for the

* The remonstrants were ninety-three. See *supra*, p. 374, note †.

title ; and if you put the question to return an answer to the other House, you tacitly admit such a House, without further debate.

Resolved, that this House do take up the debate to-morrow morning, about the answer to be returned to the message brought the other day by Justice Windham and Baron Hill.

The House rose at one o'clock. I was at Gray's Inn this afternoon ; so know not what committees sat.

Friday, January 29, 1657.

I came in late, and found the House debating upon the answer which they had received from his Highness by the Committee appointed to attend him ; which, it seems, he did not like, as coming not from both Houses, whose privileges he was equally sworn to maintain.

As for the printing of his speech, he said he delivered his mind plainly, but could not remember four lines of it. And for the paper of the charges which he told us of, he would put it into method, and give us a speedy account of it.

This return raised some debate, but the Orders of the day were called for, and it was moved to put it off till the House was fuller ; and that the mace be sent for the members into the Hall.

The mace was sent into the Hall for the members, accordingly.

There had been some other business dispatched that morning, per book and per Colonel Grosvener's motion.

Sir Robert Collingwood was called to the bar upon his knees, and presently discharged upon Sir Anthony Ashley Cooper's and Colonel Briscoe's motion, in regard there was none to prosecute against him. Mr. Crouch met me afterwards, and gave me thanks for my pains that morning in that business.

The mace being returned, the report of his Highness's answer yesterday to the Committee, was called for and read.

The substance of it was that he spoke to both Houses, and was sworn accordingly, and was tender of the privileges of either House. As to his speech he could not remember four lines of it.

See the report at large in the Journal, and the Committee's resolution.

Altum silentium for a while ; then stood up

Mr. Thistlethwaite. I move to take notice of his Highness's reiteration, " I say the House of Lords." It seems his Highness looks upon the other House as joined in the legislature, and he said he would rather die than suffer a breach of privilege to either House, to which he was sworn. Our sitting here is fruitless, unless we come to an understanding between the two Houses. I desire you would take up that debate.

Sir Arthur Haslerigge. I thought not to have troubled you, but I cannot see any thing pass that may be a breach of the privileges of this House and the liberties of England, to which I am sworn, and will, with my life and my all, maintain. I come not here to make any faction or division. I did observe what his Highness said to the Committee, that he would communicate the point of money to both Houses, whereas it is the undoubted, inherent, right of the Commons to have the business of money wholly and absolutely communicated to this House. I would have, in all humility, an acknowledgment and a representation of our desires in this case.

Mr. Drake. I hope you will not take a report of a single person about the report of your Committee. There is nothing of the point of money, by his Highness mentioned as to be communicated to both Houses ; and for that which the worthy gentleman is pleased to say of that victorious Parliament,* I have heard him say in the place where he now sits, that let our debates and votes go which way they would, it is the long sword must carry it.

Mr. Trevor. It is not improper to communicate to both Houses the necessities of the nations in point of monies ; and I am glad to hear that worthy gentleman take so good an

* *Supra*, p. 376.

aim as the constitution of this House, when there were three estates.* My motion is that you take up the debate upon the message: which was twice read over, and after awhile *altum silentium*:—stood up

Mr. Pedley. The substance of the message is good. That which is before us, is under what title you will answer the same.

All our ancient books and records make mention of that other House, under the title of Lords. The ancientest book is that of the Saxon laws, which saith, *Episcoporum, Magnatum, et aliorum sapientium Regni*. From Edward III. till Richard II. no addition of Lords, till Henry VI. time, the family of the Poynings. Then it was *Dominus de Poynings*: but ever since the Houses sate apart† they have been called Peers; but that they were all actually called Lords, I know not.

I find several records that those that were called Lords, one Parliament, were not so called, another Parliament. George de Latimer, (Henry VIII.,) called Lord then, and, after, Knight.

Lord Coke (1st Part of Institutes) says, whosoever is once called to sit in Parliament, he is ever after called a Peer. Inheritance may be created by writ, without the word "heir." (2nd Part of Institutes).

Mr. Selden's "Titles of Honour" saith, that Banneret is but a title of Baron. Admit these were Lords, whether by your Petition they are to be called Lords or that they are Lords, you have limited them in some things. You intended not that to be the title, "the other House;" for then, addresses thither may as well be meant of this House.

The writ doth agree with former writs. You have made the chief magistrate to exercise as other chief magistrates have done. If he does exercise by this name, according to the laws of the land, then this writ, if he send it out as other chief magistrates have done, you give it the very same effect as other writs have had.

* Referring to the earlier constitution of the Long Parliament.

† See *supra*, p. 349, note †.

You have, by your Petition and Advice, declared a limitation of inheritances to the Lords, yet they must have the same dignity, and in my opinion this other House must be called a Lords' House.

Mr. Scot. Truly it was in my mind to have moved you that a matter of this consequence should be debated in a Grand Committee; but it may now seem too late. I shall therefore offer my opinion. I am not studied to answer all that that gentleman has said, but I shall give it this answer. The business before you is now *res integra*, without looking back at any thing else. I shall state the case. We all know the state of our affairs under former powers of this kind; what encroachments upon both our civil and religious liberties. You have them reckoned up, all the encroachments of this kind, in a declaration of that Long Parliament.

I cannot but remember what was charged upon the late king, upon the vote for Non-Addresses, his not suffering his father's blood to come into question.* I hope I shall never

* Jan. 15, 1647-8, the Lords and Commons passed this vote, which the Lords annulled on the 30th of June following.

Feb. 11, "a Declaration of the Commons of England," in justification of their vote, was passed "by eighty voices against fifty," Sir Arthur Haslerigge being a Teller for the *Yeas*. "Mr. Rushworth informs us that great care was taken in the framing of this Declaration, that all the particulars of it might be warranted by sufficient proof."

From the Declaration it appears, that on "the 10th of May, 1626, the House of Commons charged the Duke of Buckingham" with administering to James a supposed poisonous "plaister and potion." On the 15th of June, "while the House was preparing to send up their proofs" to the Lords, Charles suddenly dissolved the Parliament. See *Parl. Hist.* xvii. 1, 2, 6, 9.

"They call to mind," says *Rushworth*, "the death of King James, charged on the Duke of Buckingham, at a conference in the Painted Chamber; when the King coming into the Lords' House, told them he could be a witness to clear the Duke in every one; and while the proofs were preparing against the Duke, the King declared an intent to dissolve the Parliament, which the Lords petitioned him not to do: yet it was done immediately after, and Sir Dudley Digges and Sir John Elliot, who chiefly managed the conference, put close prisoners in the Tower, by warrant of the King's own hand; and so never further

be suspected to be Cavalierish : I have always opposed that. See the two declarations, a full prophecy that a king shall never return* to rule over us.

It was with great unwillingness of his, that he met a Parliament. Before, it was almost treason to speak of Parliaments, albeit the laws said Parliaments should be called once a year if there was occasion.†

If you resort to the ancientness of Parliaments, you will find it as that gentleman said ; but the other House was justly cast out‡ by their being clogs upon passing of many good laws.

The Scots, when the king was at Carisbrook Castle, invaded England, not as brethren, but to impose a king upon you.§ The Lords were then desired that they would declare this invasion of the Scots, enmity, and as enemies to the

legal enquiry concerning the death of the said King was made ; let the world then judge where the guilt remains." *Historical Collections* (1708), vi. 345, 346.

It is remarkable that, in " An Answer" to the Declaration published by the King's appointment, his extraordinary protection of Buckingham under such an accusation, is entirely unnoticed, as not one of the " most material points," but included among the " frivolous, malicious, and groundless calumnies" to which " contempt is the best answer." *Parl. Hist.* xvii. 41, 42.

" There were several pens," says Mr. Macauley, " drawn to attempt to confute the aspersions thrown on the King in this Declaration ; but all the performances on this subject are so poorly executed, that they would rather tend to confirm the King's guilt than otherwise, in the opinion of a judicious reader." *History*, (1769) iv. 346, note †.

* Little did this speaker apprehend that he was soon to become a victim, offered to the *manes* of a King justly deposed and executed ; and to the vengeance of his son, returning in the pomp and power of unconditional royalty, though, at this time, the wandering and almost destitute Charles Stuart.

† See vol. i. p. 403, note §. ‡ Voted useless, February 6, 1648-9.

§ " The Scots," says *Whitlock*," are turned enemies to England, and invade them with a considerable army. Before, they joined with the Parliament against the King, now they join with the King's forces against the Parliament. How like the sea the people of the world are, still ebbing or flowing ; always in an uncertain motion, and constant in nothing but inconstancy." *Memorials* (1732), p. 320.

nations, which, for their affection to the King, they would not do.*

You know afterwards what happened. By the virtue of two or three hundred thousand pounds the Scots were persuaded to give over, and leave their King in Carisbrook Castle.†

* July 10, 1648.—The Scots army, under the Duke of Hamilton, entered England. They were soon defeated by Cromwell and Lambert, and their General was beheaded a few days after the execution of the King. *Rushworth* thus describes the cruelties charged on this army, and their not unjust retribution:—

“August 11.—Letters say, the Scots play sweepstake; take all moveables, cows, and sheep, in great abundance, and all household stuff, to the very pot-hooks; they take our children, and make us ransom them, and force our women before our faces.

“September 4.—On a Report from the Committee to whom the transporting the Scots prisoners was referred, the House voted, that they take care, first, to supply the plantations; the rest to be sent to Venice: and take special security, that none of them ever return to the prejudice of this kingdom: that within fourteen days after they are contracted for, the contractors do clear the kingdom of their charge.” *Hist. Col.* (1708), vi. 460, 478.

“July 18.—The Commons sent up a message to the Lords, with their resolution of the fourteenth, “that the Scots now come into England in an hostile manner, were enemies to the kingdom of England, and that all such English and Irish who join them are traitors.” After “a very warm debate” on the question “to agree to the resolution,” it “passed in the negative.” *Parl. Hist.* xvii. 309.

† The word, “afterwards” must, I apprehend, have been a misnomer for *before*, by the writer of the *Diary*, and “Carisbrook Castle,” for *Newcastle*, as this speaker could scarcely have so mistated.

The last of the two payments of 100,000*l.* each, was made Jan. 30, 1646-7, when, according to *Rushworth*, “the Scots marching out of Newcastle, Skippon took possession of it, and the Parliament’s Commissioners received the King into their charge, and soon after set forward to Durham, and so towards Holmby.

“The money, in thirty-six carts, was carried out of London, and Skippon met it at Northampton.” *Hist. Col.* (1708), vi. 75, 84.

“The money,” says *Oldmixon*, “was lent by the City of London, to be repaid out of delinquents’ estates and bishops’ lands.” *House of Stuart* (1730), p. 312.

“There was,” says *Oldmixon*, “another 200,000*l.* talked of,” (as *Rushworth* also states). “The Scots were to take the Parliament’s word for it; and probably they would have paid them, if they had not

After the House of Commons had declared all this of non-addresses and the like ; yet the Lords voted addresses notwithstanding.* The major part of this House voted the like.† The army foresaw that their liberties were likely to be betrayed.

I am for trusting the people with their liberties as soon as any ; but when they come to irregularities, and the major part grow corrupt, they must be regulated by miracle, or otherwise perish. The soldiers see their cause betrayed ; the city and apprentices all discontented :‡ and if the

foolishly invaded England a few months after, to procure the liberty of that prince whom they now delivered up to prison." *Ibid.* p. 313.

" This treaty the Cavalier historians exclaim against, as a bargain and sale." Yet " the money was due to them long before the King came to their army. Add to this, it was not possible for the Scots to keep him without a war ; and they were not so enamoured of the cause as to enter into one with the conquerors." *Ibid.*

* " June 30, 1648," says *Rushworth*, " a message came from the Lords," that " their Lordships had agreed " with " their Committee for considering a personal treaty, that the vote of January 3, forbidding any addresses to be made to, or received from his Majesty, be made null, and desire the Commons' concurrence." *Hist. Col.* (1708) vi. 425.

† " August 16. The Lords at a conference " proposed, " that in order to the treaty between the King and Parliament, the votes of both Houses against farther addresses to his Majesty be recalled. August 17. The Commons considering the King's letters, agreed with the Lords." *Ibid.* pp. 461, 462.

‡ " Sep. 11, 1648," says *Rushworth*, " A paper was delivered to the Commons, intituled ' An humble Petition of thousands of well-affected, dwelling in and about London ; giving reasons why they first assisted them in the war : that they expected other ways than a treaty, and would have the following things proceeded on and perfected.'" Then follow twenty-seven articles. The following appear especially worthy of recollection:—

" 1. To make good the supreme power of the people from all pretences of negative voices, either in the King or Lords. 2. To have laws made for electing representatives yearly, without writ or summons. 4. Matters of religion exempted from the compulsive or restrictive power of any authority. 5. That none be forced to serve in war. 6. That Kings, Queens, Princes, Dukes, Earls, Lords, and all persons, be alike liable to every law of the land. 9. That the proceedings in law be abbreviated, and the charge thereof made certain in all particulars.

army had not then appeared, where had then our cause been.*

12. That all late inclosures be laid open, or inclosed only or chiefly to the benefit of the poor. 13. That the many thousands ruined by perpetual imprisonment for debt (see vol. i. p. 5, *note*) be considered. 15. That punishments be more equally proportioned to offences. 16. That the tedious burden of tithes be removed, and a more equal way of maintenance for ministers provided. 18. That they bind themselves, and all future Parliaments, from levelling men's estates (see vol. i. p. 49, *note* †). 23. Not to follow the example of former tyrannous and superstitious Parliaments, in making ordinances or appointing punishments concerning opinions or things supernatural; styling some blasphemies, others heresies."

The concluding article contained, probably, more meaning than met the ear. "27. To lay to heart the abundance of innocent blood spilt, and the infinite spoil made of peaceable people, by express commission from the King; and whether the justice of God can be satisfied, or his wrath appeased, by an Act of Oblivion."

"The House, in answer, gave them thanks for their great care of the public good, and promised speedily to take their desires into consideration." *Hist. Col.* (1708), vi. 481-483.

At the time to which this Speaker must refer, the discontent of the "Apprentices" had discovered itself in support of the royal cause.

According to *Whitlock*, "April 9 and 10, 1648, there happened a very high and dangerous tumult by the apprentices, with other people and malignants who instigated them. They overpowered a party of the trained bands, surprised Newgate and Ludgate, took the keys, went to the Lord Mayor's, and took thence a drake; and beat up drums upon the water, to invite the seamen and watermen for God and King Charles." *Memoriale*, (1732) p. 299.

The first appearance of the apprentices in the mortal strife between the Crown and the Democracy was equally tumultuous, though on the other side, "May 9, 1640, about five hundred beset the Archbishop's house at Lambeth; but he having provided for his defence, they could make no entrance, only their tongues ceased not to utter revilings of all bitterness against him.

"In this case, although there was nothing but a breach of the peace, and of a few glass windows, and setting at liberty some prisoners, and none slain or hurt, yet because so great a number were assembled, and in a warlike manner, with a drum, which beat up before them; the judges resolved it to be treason, and one of their captains, a cobbler, was hanged, drawn, and quartered for it, and his limbs set on London Bridge." *Ibid.* p. 34. See *Rushworth*.

* According to *Rushworth*, "November 20, 1648. A large remen-

The Lords would not join in the trial of the King.* We must lay things bare and naked. We were either to lay all that blood of ten years war upon ourselves, or upon some

strance of the army was presented to the Commons with a letter to the Speaker, from the General" (Fairfax.)

"December 6. Several members going to the House were seized, and kept in custody, by special order from the General and Council of the army." (See *supra*, p. 85, note †.)

"December 12. The House resolved, that the vote of June 30, 1649, (which concurred with the Lords, that the votes of January 3, 1647, forbidding all addresses to or from the King be taken off) was highly dishonourable to the proceedings of Parliament, and destructive to the good of the kingdom.

"December 13. The Lords and Commons resolved to make no further addresses to the King," and "that the revocation of the votes about non-addresses, and the vote of July 28, 1648, for a treaty with the King, were highly dishonourable and destructive to the good of the kingdom." *Hist. Col.* (1708) vi. 525, 543, 550, 551.

To this interference of the military, with the members of the Commons, *Whitlock* alludes, in the following paragraph:—

"February 24, 1648,9. From the Council of State, Cromwell and his son, Ireton, went home with me to supper. We discoursed together till twelve o'clock at night, and they told me wonderful observations of God's Providence in the affairs of the war, and in the business of the army's coming to London, and seizing the members of the House." *Memorials*, (1732) p. 384.

* "Jan 2, 1648,9. The Ordinance for trial of the King was carried up to the Lords, of whom many more sat this day than usual,—in all 16. They agreed to send answer by messengers of their own, and then adjourned till the 11th instant;" having previously voted "that they rejected the Ordinance for trial of the King." *Ibid.* p. 361.

"The Lords rejected the Ordinance for his trial with indignation," if *Oldmixon* (*Stuarts*, p. 354) be correct, though he quotes no authority. Yet they had lately resolved, with the Commons, no more to address the King, or to treat with him. How then could they justly regard him, but as a criminal, liable to punishment, or, at best, as a prisoner of war, surrendered at discretion, and thus holding his life at the mere pleasure of the victors? (See Lord Orford's judgment, *supra*, p. 320, note.) Among these sixteen Lords was the Earl of Manchester, the once popular and uncourtly Lord Kimbolton, who had been one of the Parliament's generals, but, on a change of times, paid his court successfully to the restored Stuart, and complimented the new power in possession, by sitting in judgment on his *quondam* associates, the Regicides.

other object. We called the King of England to our bar, and arraigned him. He was for his obstinacy and guilt condemned and executed; and so let all the enemies of God perish. The House of Commons had a good conscience in it. Upon this the Lord's House adjourned, and never met,* and hereby came a farewell of all those Peers, and it was hoped the people of England should never have a negative upon them.

You are now moved to have both titles. There is neither House of Lords nor King yet; so that your clerk might well have taken that oath which Mr. Schobell took.†

I shall now say why they are not, why they ought not to be, a House of Lords.

1. You have not called them so. In all your Petition and Advice you have not said a word of it. Oh, but you intended it, said he.‡ It appears to me you never intended it, because you never said it; and it is reason enough for me to say it.

Once this House said King,§ and yet you never said Lords; and if ever you had said it, it would have been then. He refused it upon a pious account,|| and I hope he will still do so.

Shall I, that sat in a Parliament that brought a King to the bar, and to the block, not speak my mind freely here?

* This is not quite correct. It appears from *Whitlock*, that, "February 1, 1648,9," there was "a message from the Lords for a Committee to be named of both Houses, to consider of a way to settle this nation." Thus the Lords appear to have virtually sanctioned the Ordinance of the Commons, after the execution of the King, though they refused to become parties to his trial. The Commons took time to consider, "whether the Lords' messenger should be called in or not, and whether the House should take any cognizance thereof."

February 5. There was a "smart debate till six o'clock at night, whether the House of Lords should be continued a Court of Judicature, or a Court Consultatory only." The next day, "the House of Lords was voted useless and dangerous." *Memorials*, (1739) p. 377. See *supra*, p. 383.

† To be faithful to the Government, without a King, or House of Lords.

‡ See *supra*, p. 381.

§ Vol. i. p. 393.

|| *Ibid.* pp. 419, 420.

Could you ever so seasonably express yourselves, when it came so regularly and roundly as “ King, Lords, and Commons ;” though I trust you will not do it so handsomely.

2. Those that now sit in that House that would be Lords, did they, or not, advise you to make them Lords ?

Let me argue in a dilemma.

Did they think to be Lords ? Then it was their modesty. Did they not think to be Lords ? Then they voted like Englishmen ; just, entire, like choosing the Roman general.

I think you have not yet meant to put a negative upon the people of England ; I suppose you would not call them Lords, for tenderness of the consciences of the people of England. They are under an Engagement,* and I hope you will be as tender as you were to the point of a King ; and you will not come under the crime of Jeroboam, the son of Nebat, which caused Israel to sin.† •

I come to show why you now should not make a House ; I should say, a House of Lords. I cry you mercy ! If there be a House of Lords, it is more reason to call the old peerage ; and there is not one of them there, as I am informed. But you cannot call them for impossibility. You have not a *quorum*,‡ not half a *quorum* of persons qualified. Those that be, fail in the very *formalis causa*, estates and interest. Anciently the Bishops, Abbots, and Lords, their tenants, and relations, could engage half England. The Providence of God has so ordered it, that England is turned a Commonwealth, and do what you can, you cannot make it otherwise ; and if you join any with them in the legislature it will not do your work.

The administrations of God’s dealings are against you. Is not God staining the glory and pride of the world. Is there any thing but a Commonwealth that flourishes ; Venice against the pride of the Ottoman family. All their mountains are pulled down. God governs the world, as he governs his church, by plain things and low things. It was this that led your Long Parliament ; the Providence of God, that virtue

* See *supra*, p. 279, note •.

† 1 *Kings* xvi. 26.

‡ See Vol. i. p. 386.

and honesty should govern the world ; not that I am for fifth monarchy.*

II. Why not this House to be Peers ?

1. Because they are but Commoners, and were yesterday here. It is not agreeable to the qualification of Commoners. For ought appears to you, they sit as a part of the Commons, in another place. They have not the reason of the quality of Lords. They have not interest, not the forty thousandth part of England.

2. Have they an interest ; had they an interest ; why not sit here ? The interest follows the persons. As they have none by sitting there, they lose interest by it. The old nobility will not, do not, sit there. They lose that interest. You lose the people of England by it.

They were, by the Providence of God, set free from any negative. Will they thank you, if you bring such a negative upon them ? the people that have bled for you, that have not gained by you, but you by them. What was fought for, but to arrive at that capacity to make your own laws ?

3. The unhandsome posture you bring yourselves into by it ; to stand here to that House, not like a Parliament of England. I know no number of men that represent so many thousands that should have that respect. (He told a story of the Senator of Rome's answer to the King.)†

Consider the consequences, that you charge not all the blood upon the great Parliament. The blood that shut out a negative stands at your door.‡ Some of Queen Mary's blood§

* Of which the adherents now excited apprehension. See *supra*, p. 2, note *.

† Here may be a reference to the intercourse of Cineas, the ambassador of King Pyrrhus, with the senators of Rome, as related by *Plutarch*.

‡ It is frequently very difficult to understand this Speaker ; and there remain only the *disjecta membra* of his speech. He seems here to mean that if the House re-admit a negative, by recognizing a House of Lords with a co-ordinate legislative power, they are accountable for all the blood shed to secure the exclusive power of the Commons, by thus causing it to have been shed in vain.

§ Mary Queen of Scots, I apprehend. Perhaps some words are omitted.

lies here. I have heard of some motion for a day of humiliation for this blood.* You must put on the King's head again, which was surely taken without his consent and the Lords' too. Let not the people of England petition to have fetters upon them. Let it be your patience, and not your desires. It is not noble for the people of England to seek this.

1. Objection, it is an old custom, an old constitution.

This is an argument for popery, prelacy, and atheism. True, Adam in his innocency was before Adam in his apostasy.

2. They are made Lords. They that made them another House made them Lords. I will not say but his Highness has power of honour, but not to set up courts. I would as soon be knighted under his sword in the camp, as under any man that ever gave honour.

The argument is sophistry: you made them another House; his Highness made them Lords; therefore they are a House of Lords. You have settled them only as a high Court of Justice; but if you make them a co-ordinate power with you, you give them the power of your purses, of peace and war, of making laws; and magistrates to execute them.

The people of Israel were governed by themselves; by the people. The people met, saith the text, and went to Hebron.† The people have power of all these things. God submits all his administrations to the people,‡ with reverence may I say it. God left to Adam to name all creatures. God

* Referring, probably, to some ante-restoration project for regarding the anniversary "of The Martyrdom of the Blessed King Charles the First," which, in modern days, favourable to a more impartial examination of his character, appears to be silently falling into an unregretted desuetude. The Parliament, if assembled, generally adjourn over the day, as they do also over the 29th of May, entertaining, probably, some "historic doubts" as to the "unspeakable mercies, which, according to the Liturgy, had attended "the restitution of the King."

† 2 *Samuel* v. 3. See "The History of Hereditary Right," (1711,) pp. 91—96.

‡ "Even this divine choice," says *Fleming*, "did not properly constitute David, King, in a full and legal sense, until it was ratified and confirmed by the people's choice." *Ibid.* p. 91.

did not say this is a lion, this is a bear; but Adam gave names to every creature. So he did to the woman, because a rib out of his side gave her a name. This House is a rib out of your side. You have given it a name. My motion is, that you would not alter it.

Sir Arthur Haslerigge. I should be glad to make any good motion. This business before you is a matter of great life and consequence. It is the effect of much blood and treasure. I should move that it may be seriously debated in a grand Committee, and taken up to-morrow morning; and that you would now go to dinner.

Mr. St. Nicholas. I second that motion, that you would now rise, and take up this debate to-morrow in a Grand Committee; it being a business of eminent consequence, and that whereon depends a great deal of our liberties that we are sworn to.

Major-General Boteler. I move, for saving time, that you adjourn till this business be over.

Sir Anthony Ashley Cooper. I second the motion to have it debated in a Grand Committee. It will be most proper in a business of this consequence, and cannot be denied.

Mr. Gewen stood up, and offered some answer to the long oration, as he called it, made by Mr. Scot; and endeavoured to answer some reflections upon some of that victorious Parliament, which he^e called the corrupt party. He was taken down.

Mr. Weaver moved to take down Mr. Gewen, and justified Mr. Scot's motion, and seconded the motion to have it debated in a Grand Committee; it being a matter of great moment to the people of England.

Mr. Serjeant Maynard. You have resolved even now, that this debate shall be adjourned till to-morrow; and now you come to speak of a Grand Committee. The debate being ended, no other motion ought to be put.

Mr. Gewen. The gentleman that made the long oration did, in substance, say, *Nolimus hunc Regnare.*† He shows

* Mr. Scot. See *supra*, p. 385.

† "We will not have this man to reign over us." *Luke* xix. 14.

himself a thorough paced Republican. There was such a sharp reflection upon that Parliament. He speaks that the greatest part were corrupt. I desire he may explain of whom he means; those that were peaceably spirited, and would not go that length that some did, who could bring over the army to purge the House* of such spirits as inclined to peace, and then call them the corrupt party. I like not such reflections.

Colonel Shapcott. I move to adjourn the debate till to-morrow morning; but if you go to a grand Committee, you will never come to an end.

Serjeant Maynard. If you put the question to adjourn, you exclude the other question, as to a grand Committee; so you need not cry *No*.

Colonel Matthews. The other question was first moved, viz. for a grand Committee.

Resolved, that this debate be adjourned till to-morrow morning.

Colonel Morley moved to put off the question about a grand Committee till to-morrow.

Mr. Bodurda moved against a grand Committee.

Major Morgan. There will be no end of a grand Committee; and if you must have such a question for a grand Committee, put it now.

Colonel Shapcott and *Mr. Trevor.* It will look strangely upon your books, that you will go into a grand Committee to consider what answer you will give to a message for a fast.†

Mr. Weaver and *Sir Arthur Haslerigge* pressed to rise now, and take it up to-morrow morning.

Captain Baynes. I move that you put the question, whether that question shall be now put.

Sir Arthur Haslerigge. There is a great deal of blood and treasure depends upon this question, and though two speakings take up a day, it may very well be two months debate; and after I have half answered the arguments against it in the

* See *supra*, p. 85, note †.

† See *Ibid*, p. 340.

House, I may answer the other half in a Grand Committee. It is a matter of the greatest consequence that ever can be to the people of England.

The question being put, that the question be now put,

Mr. Speaker declared for the *Noes*.

Captain Dunch for the *Yeas*.

The *Noes* went forth.

Yeas 84. Sir John Thorowgood and Sir John Coppleston, Tellers.

Noes 78. Sir Thomas Rous and Mr. Windham, Tellers.

So it passed in the affirmative.

The main question being put for a Grand Committee, it passed in the negative.

Sir Arthur Haslerigge and others offered, that notwithstanding it might, in the morning, be moved to bring it to a Grand Committee, they hoped no man should be debarred of speaking his mind freely, and as often as he pleased in a business of this great weight and importance to the people of England; but it came to no further question.

The House rose at one. I did attend no Committees this day.

Saturday, January 30, 1657-8.

When I came in, I found

Sir Arthur Haslerigge, moving about the business of fishing.

It was moved that the mace might be sent into the Hall for the members.

Captain Hatsell. I move that you require the judges to sit at seven and rise at ten; so that all your members may attend.

Mr. Bond. You will make yourselves very cheap, to send your mace every day out for your members.' I would rather have you to require your judges to sit at seven and rise at ten, that all may attend; and if you take away the counsel

wholly, you will undo many a poor man, who has retained them, from the beginning, in their causes.

Mr. Weaver. I move that you will not put the judges to harder tasks than ourselves that are younger constitutions, to sit at seven. I would rather have you require the counsel to attend here, or stick wholly to their practice, and let others come in their places that will attend. We have little of their help, either here or below, (at Committees, I mean,) though they are very useful, I confess, if they would apply themselves to it.

Sir Lislebone Long. I move that you will not put a harder task upon those of the long robe, than on other professions who do their own business and yours too. I have never observed, in my experience, but they have been always ready to assist, both here and at Committees, in matters of difficulty.

The order of the day was read, and then stood up

Captain Whitgrave. The long oration made yesterday, I heard most of it, in 54, directed against the supreme magistrate,* now against the House of Lords. It wholly tends to a Commonwealth, so I hope it will need no answer. It is an English proverb, "The burnt child dreads the fire." We have sad experience of what treasure it cost us when we were a

* In the Parliament which met September 4, 1654, Mr. Scot was member for Chipping Wycombe. Of his uncourtly deportment and his political associates, at the first meeting of this Parliament, *Ludlow* has given the following account:—

"Whereas the court-party would have obliged them to approve at once the whole Instrument of Government which they had framed, the assembly took it in pieces, and referred the consideration of it to a Committee, where the first question fallen upon, was 'Whether the supreme legislative power of the nation shall be in a single person and the Parliament.' In this debate Sir Arthur Haslerigge, Mr. Scot, and many others, especially the Lord President Bradshaw, were very instrumental in opening the eyes of many young members, who had never before heard their interest so clearly stated and asserted; so that the Commonwealth party increased daily, and that of the sword lost ground." *Memoirs*, (1698), ii. 499, 500. See *Parl. Hist.* xx. 334, 348.

For the Protector's expedient of a recognition, and the manner of exacting it, see vol. i. p. 273, note †.

Commonwealth; more than in five hundred years before.* Let us consider the condition we are in: Scotland scarce recovered; Ireland wants but swords, to return again to be our enemy. His Highness has called the other House a House of Lords, and my motion is, that you would address your answer to them by that title.

Mr. Hungerford. I move that you would not wade into the merit of a government wherein you are settled; but keep to the question in hand. Whether you will begin the other title,† or retain this,‡ I shall leave it to you; but let your debate have a method, and it will sooner be ended.

Mr. Bond. I do not like to hear reflections of any kind upon the Long Parliament, to whose pains and success this nation owes its peace and safety. The gentleman is pleased to say they were expensive. I am not of his opinion.

Sir Arthur Haslerigge. I move that all reflections be spared; and, for my part, I can pass by all that the young gentleman has said.§ I desire not to spend time in such de-

* For this bold assertion belief could scarcely have been expected. The republican economy has, I think, been generally admitted, and Milton's remark justified, that "the trappings of a monarchy will set up a commonwealth." Have the United States of America disappointed the expectation?

† House of Lords.

‡ Other House.

§ The reputation of the Protector's government, especially as to his assumption of it, so much depended on depreciating the disinterested and patriotic character of the Long Parliament, that his courtiers, of whom probably was this "young gentleman," would be disposed to forget or disregard the maxim, *de mortuis nil nisi verum*. Yet Guthrie, an anti-republican, admits that the vast expense of the Parliament's wars, was not "drained from the sweat of the people," who, on the contrary, "scarce felt their burdens." See Macaulay's *History*, (1772) v. 103.

Mr. Trenchard, in his "History of Standing Armies," says that during the "five years," of their government, they "managed the public expenses with so much frugality, that no estates were gained by private men upon the public miseries." See "Tracts by Trenchard and Gordon," (1751) i. 70.

The conduct of Sir Henry Vane cannot here be unnoticed. He was "sole Treasurer of the Navy," by a patent for life. "The fees were

bates; but to endeavour to satisfy one another, with all tenderness and calmness of spirit and christian moderation, as becomes a senate.

four pence in the pound, which amounted it is said," during the Dutch war, "to little less than 30,000*l.* a year. Sir Henry, of his own accord, gave up his patent to the Parliament, desiring but 2000*l.* a year, for an agent bred up to the business, and the remainder to go to the public." *Brit. Biog.* (1770) vi. 92, 93.

Mrs. Macaulay, as might be expected, warmly eulogises this "generous instance of disinterested virtue, not to be met with in the history of monarchy, from the time of the Conquest to this day." I know not whether the remark be correct, or if the half century which has elapsed since the historian wrote it, have supplied the instance of a disinterested royalist, to match the patriotic republican.

Well might Cromwell, on his last and ever-memorable appearance as a member of Parliament, be heard, as *Ludlow* has related, (*Mem.* ii. 457.) "crying out with a loud voice, oh, Sir Henry Vane, Sir Henry Vane, the Lord deliver me from Sir Henry Vane," whose generous adherence to the public cause, must have been insufferable, as too powerfully illustrating by contrast the selfish character of his own ambition.

The following instance, worthily imitated by a later Lord Deputy, (see *supra*, pp. 197—200, 224), occurred in the Protector's family, during the flourishing days of the republic.

"They ordered," says *Ludlow*, (1651), "an Act to be brought in for settling 2000*l.* *per annum*, on the Lord Deputy Ireton, the news of which being brought over, was so unacceptable to him that he said, 'they had many just debts, which he desired they would pay before they made any such presents; that he had no need of their land, and therefore would not have it; and that he should be more contented to see them doing the service of the nation, than so liberal in disposing of the public treasure.' And truly," adds *Ludlow*, "I believe he was in earnest; for as he was always careful to husband those things that belonged to the state, to the best advantage, so was he most liberal in employing his own purse and person in the public service." *Memoirs*, (1698), i. 371.

The Lord Deputy survived this transaction only a few weeks, from having "so totally neglected himself during the siege of Limerick." He was "solemnly interred at Westminster in a magnificent monument, at the public charge;" (demolished in 1661, to grace the return of royal *regular government*;) "having erected for himself a more glorious monument in the hearts of good men, by his affection to his country, his abilities of mind, his impartial justice, his diligence in the public service, and his other virtues, which were a far greater honour to his memory, than a dormitory amongst the ashes of kings." *Ibid.* p. 384.

I had occasion to remark in another place, how closely *Pope* appears

Mr. Walker. I thought that your Petition and Advice had put this debate to an end and determination. At the same time you breathed into it* the breath of life, you gave it a power co-ordinate with you in the legislature.† I never heard of another House with another power. (He made a little pause.)

I shall answer the objections.

1. You intended not that they should be a House of Lords, because you did not call them so.

Let your debates be examined, and it will be found you intended a restitution of the second Estate of Parliament. And you have the interpretation of it, that made it.

1. In Art. 5. there is an exception; so surely there must be a rule, else the exception were to no purpose.

2. The name of distinction to this House, "The House of Commons," proves that there is meant and intended another power co-ordinate. (All this wind shakes no corn.)

A constitution (save for the interposition of wicked men) that our ancestors lived very well under; our neighbour nations happy in it: a government which you have been pleased to draw, wants only your *ultimatum manum* to make it happy and satisfactory to the people.

If we will not consider things, let us consider times, the ruin that your enemies intend you. I need not use, I hope, any arguments to induce a correspondence between the two Houses but the necessity. No supplies can be granted. Judgments will necessarily fall upon us.

They are not fetters for our feet, but a just curb in our mouths. Though they be but a swarm from us, as is said, let them grow with us, in gathering of honey, that the nation and they and we together, may taste the sweets of it.

to have imitated this sentence, in the concluding lines of his epitaph on Gay. Perhaps *Ludlow* had a reference to *Crashaw*, or to the Latin verses on the death of Prince Henry. *Pope*, too, might have seen both. See *Monthly Repository*, (1810) iv. 68, 69.

* The other House.

† Compare the opinions of "Mr. Godfrey and Mr. Lechmere," *supra*, pp. 120, 121; and see *supra*, pp. 298, 301, notes.

My motion is, that you explain your Petition and Advice, that this shall be a restitution of the second Estate of Parliament.

Colonel Matthews. In regard there is an Act of Parliament against a House of Lords, before you debate it, you should ask leave to speak against it.

Colonel Shapcott. I move to the order of your proceedings. You resolve to return an answer to the message. That argument* lies also against a single person. Your order is, that you will take up the message, and consider what answer you will return to it.

Mr. Weaver. There is a law, declaring that that House of Lords was useless;† and that for good grounds, which I shall not speak to now. But, certainly, leave must be given to speak against that Act ere you proceed.

Sir Arthur Haslerigge. We are not yet gone so far. Our business is, only to debate what answer to return to the other House. When you come to speak of Lords, then must leave be given to speak against the Act of Parliament.

Mr. Bodurda. That gentleman has most reason to know whence the message came. He has privilege to sit in that House. Yet, if any know the message better than those that brought it, it is strange.

Mr. Scot. I move that thanks be given to that honourable person that vouchsafes to sit among the Commons, notwithstanding his call to another place: that he thinks it his honour to sit amongst the Commons of England, before any society of men whatsoever.

Mr. Trevor. It does not appear, by your books, whether they are called the other House or no.

Major Burton and Mr. Moody. It appears by your books that you call them the other House. (But the books being resorted to, it appeared otherwise.)

Mr. Fleetwood. The person that blew this disturbance into

* From the "Act against a House of Lords."

† See *supra*, p. 386, note*.

this House, was pleased to move thanks to be given to a member for sitting here. I desire likewise that thanks be given for his long speech.

Sir Arthur Haslerigge. I move to know whether, regularly, they ought to send a messenger to you or you to them. Naturally, in my opinion, it ought to proceed from this House.

Mr. Bodurda. This silence makes me stand up. I am none of those that triumph upon your order. That it is another House I do not deny : but that excludes them not from being Lords. My motion is that you put the question, to appoint a number of your own to attend the House of Lords with an answer to their message.

Mr. Ashe. They be another House of Parliament ; as so you have acknowledged them. They are persons fit to make addresses to you. It is not now to determine of titles. My motion is, that you send to the other House that you intend to join with them in this Address to his Highness, for a day of public humiliation. In my opinion, the title comes not now at all in question, nor need.

Colonel Carter. I move that you determine the question upon the title before you leave it ; otherwise you will be at a loss upon every message, upon what terms, and under what title, you will treat with them. In my opinion, there is nothing so necessary to come to a conclusion in as this.

Baron Thorp. I observe, upon reading your orders, that you have a message from the Lords, and your return is that you will take into consideration the message from the other House. If so, what can you then do but return a message to the other House ? There is nothing else before you. You have neither done nor said any thing to give them another title.

By your concurrence with the other House, it may prevent the dangers that some gentlemen do move that we are under. When such a question comes before you, as to own them under that title, you may then determine upon the Act, and what title you think fit to give them ; and you may safely return such an answer to them, by the name of the other

House, for you have not yet called them by another name. The message is good, honest, and religious.

Mr. Nanfan. I conceive it is the great matter in debate, to know by what title you will treat with them. The title "other House," signifies nothing. It is absurd and repugnant; for when you come to these doors, then you are the other House to them.

Sir Anthony Ashley Cooper. I apprehend nobody speaks of that notion which I have in my head. Your order is very nice. You have a message from the Lords, brought by the judges from the Lords.

Unusual causes produce unusual effects; and nothing so ordinary to philosophers as to meet with such.

I would have things proceed by natural steps. When once you have made a return to the message from the Lords, the logic I have, which is but little, informs me that your return acknowledges them to be a House of Lords. I would rather have us consider from whom that message is, and we can better tell what answer to return.

Mr. Hoskins. Considering the weight of the business before you, I thought silence was the best service I could do you. I see you are at a loss what question you will go upon. It is clear from whom you received the message. Some answer must be returned.

The proper question is what answer you will return to the Lords? The Petition has a further sanction, now his Highness consents. It is obvious to every one that has read, that the calling of them to sit there by writ, is making them Lords. Whether it be that House of Peers you mean, or some other, it is fit you should come to some concurrence; but especially in this business. Go upon which you will take up first. I leave it to you; but, if you please, let that be your first question, whether you will call them Lords, that some progress may be made.

Alderman Gibbes. It is true we have received a message, and it is as true that we have engaged to return an answer; the question is, to whom, and under what title? The great

difficulty of this debate is, because it does not appear whether it is from what is old, or from what is new.

Look into your Petition, and see if you have created such a power as to have a co-ordination with you; or to send a message to you. It imports either a co-ordination, or a supremacy above you. See what power you have given them, and what further power you will give them.

The clause was read relating to calling of the other House.*

Colonel Shapcott. I do now find the unhappiness that all your members were not here at your debates.† The business that you were advised about was, what was best for the people; and it was first thought not fit that laws should suddenly pass upon the people. So it was clearly your sense to settle three estates. If this be not taken for a foundation, then ought leave to be asked to speak against what was moved to you.

It is clear, nothing clearer, that they are a House of Parliament; and if so, it was never known that two Houses of Commons were in England.

Consider what his Highness told you. He was sworn to maintain the privileges of the two Houses; one under the title of Lords; and I believe he did not take that oath without good advice and counsel.

If we dispute grounds and foundations, we shall soon dispute ourselves out of doors.‡ If they be not a House of Parliament, it may be said the same of us; and nothing so natural as for them to send to us, and we to them, for passing laws.

You cannot own them to be a House of Parliament unless you call them a House of Lords. You know what they are, where they sit, what they are doing.

My motion is, that you would consider what to return to the Lords.

Sir Arthur Haslegrave. There is nothing so clear. They

* See vol. i. pp. 381, 387.

† See vol. i. p. 262, note †.

‡ This speaker was, probably, in the secrets of the cabinet.

have the title of the other House of Parliament. I am loth to come upon so great a question. They are another House, and that is enough. I speak not but to maintain what you have passed. It is good, if you can let it alone. Englishmen cannot bear when it is well. I think it is very well.

If his Highness will make you dukes, earls, he may do what he will. Grant once Lords, then you will find tenderness, of course, to maintain the privileges of that House as Lords. The Commons of England will quake to hear that they are returning to Egypt, to the garlick and onions of (he called by a slip) a kingdom. I crave your pardon for that mistake. We are yet a Commonwealth, and I hope I shall many years humbly ask your pardon for that mistake.

It is moved you that laws slipped, therefore need of some to superintend or supervise, I should say, your slips and mistakes. My motion is to consider what answer you will return to "the other House."

Mr. Trevor. I move that you agree first about the appellation of those persons, to whom this answer shall be made.

It was a great while to stumble upon a question; at last

Mr. Speaker. Two questions are before you; first, to the substance of the message; second, to the appellation of the persons to whom you will address it.

It was agreed upon the question, *neshine contradicente*, to debate upon the latter, viz. about the appellation.

Sir Arthur Haslerigge. I move that you adjourn the debate till Wednesday, because of the call of the House.

Colonel Carter moved to take it up in the afternoon.

Alderman Gibbes moved that it be taken up at ten o'clock on Monday next, after the calling of the House; and it was so

Resolved accordingly. The House rose at one.

In the afternoon the Committee about the Records and Writings to be delivered to Mr. Smyth, sat in the Speaker's Chamber, where Mr. Scobell, by his servant Mr. Simons, had sent an inventory of all the Records and Writings belonging to the House. The Committee being not satisfied therewith, went to Mr. Scobell's house themselves, viz. Francis Darley,

Bodurda, Bond, Matthews, Pedley, Scot, Stone, Lucy, and I, and demanded all the Records, and said those that he had inventoried were not all, for there were none of the Bills nor Acts that had passed. He insisted, that all Acts of Parliament, after they were passed, were no more the Records of the one or the other House, but the public Records of the nation; whereunto every one might resort: and being specially charged with the custody of them, he could not safely deliver them up on an implicit order, unless the order had said Act, Acts, or Bills passed, &c.; and further, he said, that there was not one Bill in his custody that did lastly pass in the House of Commons, for they were again always sent up to the House of Lords, after the Commons had concurred.

The Committee were satisfied for the present, and intend to move the House.



Monday, February 1, 1657-8.

Mr. Darley reported from the Committee about the Journal books and Records of this House, that the order of the 26th January was short, for want of the words "Acts and Ordinances," without which *Mr. Scobell** would not deliver the Acts and Ordinances, they being public Records of the nation, and not the Records of this or that House.

Mr. Scot seconded the motion.

It was thereupon resolved (*nemine contradicente*) that the words Acts and Ordinances be added, and that the boarded House within the Court of Requests, and the room thereto adjoining, towards the Inner-court of Wards, be the place to keep those Records in.†

Colonel Gorges. I move that, because the House is thin, you would call in a prisoner, at the door.

He was called in accordingly; but, in regard the paper of

* Who had been appointed Clerk to "the other House."

† "For the laying-up and keeping of the journal-books, records, acts, ordinances, and writings, belonging to this House, which are to be delivered by *Mr. Scobell* to the Clerk of this House." *Journals*.

charge against him could not be found, after the fellow had sat a good while on his knees, he was commanded to withdraw, and attend his call.

Mr. Speaker acquainted the House, that the order of the day was double. First to call the House, and then to resume the debate adjourned on Saturday. The order of the day was read accordingly.

The House was called over, and T. B. appeared at the first call; C. L.* not till the second call. There were many absent, and near about fourteen dead since last session. (See note of them *infra*.†)

A petition was offered in Mr. Bampffield's behalf, that he might be dispensed with, in regard of the oath, which he was not free to take, and whatever was not of faith was sin.

Mr. Gewen moved it.

Mr. St. Nicholas seconded him, and said he was to move for another, (it seems but three in all, viz. Mr. Godfrey, Bampffield, and ———.‡)

It was suspended till the second call, but I suppose nothing will be done in it, in regard nothing can dissolve an Act of Parliament, but an Act of Parliament.

Alderman Foot. There are three members of the city, viz. Brown, Adams, and ———, § that would willingly attend, if you would declare that the penalty extends only to future Parliaments.

Mr. Speaker so agreed. (Query, if his declaration be satisfactory.)

It was moved, that by the orders of the House in case of double returns, none shall sit till it was determined by the House. After half an hour's debate this was assented unto, and divers members withdrew upon it, viz. Captain Baynes,

* T. B. was probably Thomas Burton, whom I suppose (*supra*, p. 159, note †) to have been the writer of this Diary. C. L. might design the other member for Westmoreland, Christopher Lister.

† No such note now appears.

‡ Blank in MS.

§ Another blank. Biddulph and Jones appear, in *Parl. Hist.* xxi. 10., as members for London, besides the Aldermen Foot and Pack.

Mr. Maidstone, and Colonel Briscoe. Ordered, that a note of those members be set upon the door. Query, their names.

Mem. See Journals for what was done more,* for I went out at twelve; nor could I attend any Committees, for I was engaged upon other business.

Tuesday, February 2, 1657-8.

When I came in, Brown, the prisoner yesterday, was at the bar on his knees, receiving his sentence, which was to stand committed for one month to the Serjeant-at-arms.

Query from Journal, what further punishment. Query, also, what more was done that morning,† for I attended Mr. Clapham's business.

The order of the day was called for and read, and some had spoken while I was out; but when I came in I found

Mr. St. Nicholas moving strongly against the House of Lords, and in the very bowels of the whole Petition and Advice, launching throughout, and citing a great many authorities. I could take no particulars, having not got settled till he had done.

Sir Arthur Haslerigge moved strongly and passionately against this House of Lords; and said, "Well for Pymm,

* "Resolved, that an Order be sent to the several sheriffs of the several counties, to summon the several members that are absent and have this day made default, to give their respective attendance in the House.

"Resolved, that the time for the members that are returned to serve for Ireland to attend by, be six weeks from this day: for Scotland one month: for any of the counties of or places within England, and beyond the river of Trent, or for the counties of Devon and Cornwall, or for Wales, three weeks: for any other counties or places within England, and within eighty miles distant from London, fourteen days: within fifty miles distance, eight days." *Journals.*

† Nothing appears in the *Journals* of "further punishment," or any other business, till the "Order of the Day."

Stroud, and Hampden, my fellow-traitors, impeached by the King, they are dead; yet I am glad I am alive to say this at this day."

He made a long narrative, how useless and pernicious the House of Lords was. The saint-like army, who were not mercenary, were sensible of those grievances. They willingly laid down their lives, and the army desired they might have a decent interment,* which was done accordingly. And shall we now rake them up, after they have so long laid in the grave? Will it not be infamous all the nation over? Shall we be a grand jury again? There is not a man in this House but has sworn against it. Why do we keep out the cavaliers?

I beseech you, Mr. Speaker, let us go to old orders, and let a matter of this consequence be fairly debated in a Grand Committee. I beg it of you on my knees, that we may debate it first in a Grand Committee. I do it not to delay; but we may counsel one another. It is a matter of the highest concernment that ever was debated in a Parliament of England.

Colonel Lister. I second that motion. It is very rational that a matter of this weight should be thoroughly debated, and that we come to a right understanding of one another, with candour and ingenuity. What better expedient than soberly to debate it in a Grand Committee, which was never denied in this House.

He did wade a little into the merit of the business, as the rest had done; but concluded his motion, as he began, for a Grand Committee.

Major-General Boteler. These two worthy persons have moved irregularly, especially the honourable person that spoke first. I doubt, when he comes to speak to the matter, he will speak to the proceedings; because, in speaking to the proceedings, he speaks to the matter.

The little worthy gentleman that spoke the other day,

* Perhaps here is a reference to the House of Lords; but it is not very easy to discover the meaning.

(I crave your pardon that I name him little), I think he said, *de minimis non curat lex*; he did divide this question into two heads. I shall answer thus.

The writ makes them a House of Lords, for they are *pares inter se*, as the old House of Lords were.

1st Objection. They have no other name * by the Petition and Advice.

Answer. When it was made, it was asked why so insignificant a name? It was answered, leave it to his Highness to advise, about how they should be called, and you left it to him.

2nd Objection. They are not a balance, as the old Lords were, as to matter of estates.

Answer. What balance were the old Lords, in your assistance, against the Scots? I do not know when they were a balance but in the baron's wars. They were always a balance with the King, against the Commons.

These are the qualifications, religion, piety, and faithfulness to this Commonwealth. They are the best balance. Those persons have it. It is not estates will be the balance.

It is a burthen to them to be Lords, (if so you call them) and a great self-denial. They must live accordingly.

The great objection. The engagement.† We are all under it. I am under it; and if I cannot rationally be convinced that I am free, I will be against this. I am not for a King, and shall not be.

They are mistaken that say these are the same with a House of Lords. It is quite another thing. We know they are another House. Most that is spoke against it, is against the thing itself. I hear it much talked on, that we shall come to an arbitrary power. I had rather be never a day in England.

You are under a settlement which does clearly distinguish this from that constitution of a House of Lords.‡

* Than "the other House."

† See *supra*, p. 279, note *.

‡ Chiefly as the members of "the other House" were not hereditary, nor suffered to vote by proxy.

Providence is not wholly to be attributed to nothing, and it is not only to make men great. As we are under these fractions, without a Parliament we cannot live. Two are better than one, and three better than two, still more safe. A threefold cord is not easily broken, as a noble lord said in his speech. *

If we break it ourselves, if we admit of perturbation of spirits,

1. We may burn the cord which none can break.

2. We may untwist it.

3. By tying knots or twitching it too far, it will not bear.

He that shall move to put any thing upon it, does stretch it. He aims to break it. We may cast ourselves upon that rock.

A House of Lords they are, and they will be so; and let us not strive against the stream, lest we spend so much of our own strength against ourselves, that we shall not be able to defeat our enemies. My motion is, that you would agree them to be a House of Lords.

Mr. Drake. We may bless God that our constitution is come again to a settlement. If God bless us not with spirits to close with it, we may say, sad will be the consequences. I wonder why worthy members should run upon mistakes,

* The speech of the Lord Commissioner Fiennes. See *supra*, p. 330, note †. The learned orator proposed to adopt the "familiar way of expression in the dialect, and to the sense and experience, of every plain countryman." He proceeds to compare the new settlement to "new-set plants," and delivers a caution, to which the Major-General refers, which I am disposed to quote, having given before but a short specimen of the Lord Commissioner's very long speech:—

"But then we must beware and take heed of the subtle devices of such, who designing to destroy it, judge, and not without reason, they have no such time to compass their purpose, as to disturb and distract our settlement in the infancy thereof, before the two rows of sets have taken deep root in the bank, and before they be grown up together, and are interweaved and plashed one into the other. For then they fear it will be too late to do it; the fence will be grown strong, like a treble cord, which cannot easily be broken, unless they can untwist and unravel it again." *Parl. Hist.* xxi. 186, 187.

so as to question that this other House is clearly meant a House of Lords. I shall humbly offer my reasons.

1. It is done already. They are called by the old writ.*

2. Look upon the commission. It is for swearing the lords.

3. His Highness's letter to us, to the House of Commons: and his Highness owns them by that title, both in his speech and it is so entered upon your books.

4. Look upon your constitution at your last meeting, where you gave power to them, to do in all things as relates to the other House of Parliament, according to the laws of the nation. (No part of the Instrument.)

Creation and preservation are inseparable. If we created them so, shall we not preserve them so? Why, is not his Highness sworn to it?

6. It is a dangerous thing to question our constitution; for enter upon one part, and you invade all. To quarrel at foundations and principles is dangerous. For aught I know, (if we agree not,) but they may be the great council that shall rule us. My motion is, that you would call them a House of Lords.

Colonel Briscoe. I must needs acknowledge there is another House by your constitution. I cannot deny it. It is a House set up by you. The difference is only about the name.

This question depends upon another question, whether it is an Act of Revival? Then it must have all the privileges; but if it be a new constitution, why not a new name?

1. The persons are new.

2. New qualifications not known before; a set number precisely, which was not before.

* *Whitlock* says, "December 11, 1657. I received a writ of summons under the great seal, to sit as one of the members in the other House of Parliament. The form of the writs was the same with those which were sent to summon the Peers in Parliament." *Memorials*, (1732) p. 665.

3. Another alteration imports a new constitution ; no proxies.

4. No cause, civil or criminal, to be determined by commission.

Objection. It was intended to be such a House.

In every law there is a letter and a meaning, but it must be such as the letter will carry.

1. Not within the words : not of necessity. The House may be as serviceable under another title.

It is no question but the people have a greater liberty when they have no superintendant, whether it be safer or no.

2. Objection. The words are insensible and uncertain words. If this law be defective, let it be amended by them that made it. If it be a real defect, it cannot be supplied by implication. If there be not words in a will to amount to such an intent, nothing can pass.

1. By the Act of Parliament we are not necessarily confined to that title.

2. The writ. I grant the writ anciently did create barons, and in the judgment of the law, he was so as well as if he had a patent.

You limit my Lord Protector, not to call such by the title of Lords, but by the title you call them. But, in the pursuance of your Act, the derivative power shall never exceed the primitive power. His Highness doth it instrumentally, and not *jure prerogativo*.

I wish that may be done that may be for the glory of God. We must judge upon the subject matter as judges in Westminster-hall. I do not see any thing defective ; but the appellation is sufficient to distinguish them. Therefore, at the present, I am to concur in your question.

Mr. Trevor. Your messengers called them Lords : his Highness called them so : and now we must not call them so. It is said your petition calls them not so. They are intended, and made a House of Lords.

I know names are but the distinction of things. The word

"Commons" makes the word "other" a relative. It relates to somewhat of what we spoke on of late.

By the Advice, Parliaments are to be called. I would fain know what is meant by two Houses, unless they were.

There is no affirmative power given to the other House, but only negative, as no proxies, &c. ; so does not imply a new foundation, but argues an old constitution.

In all other things the laws, statutes, and customs of the land shall be observed, saith the Petition and Advice.

This House looked upon our condition; upon what loose bottoms we had stood by new foundations.

As they are intended to be so, it is also much safer. We know what the House of Lords could do. We know not what this other House may do. It may claim to be the House of Commons, to open the people's purses at both ends. I shall not use that argument, that they call themselves so, and sent down to you by that title. I shall not offer that to you, that his Highness has called them so, and said they shall be so, and that they were the lost constitution.

(Query, if not so said of the Major-generals sometimes.)

1. Objection. They were shut out in 1648 by God's providence.

Others were shut out then, and he may observe it was his own case; God's providence had once shut him out.*

2. Objection. It is said, the Petition is well if we can let it alone.

It is said those worthy gentlemen, if they were alive, would have been disturbed to have heard this debate.† I will say no more. Those worthy persons were dead before ever that power was taken away. And when they‡ are settled, this is but a step. They will find no rest upon that bottom till they come, as near as may be, to that old constitution of King, Lords, and Commons.

Is not his Highness sworn to maintain equally the privi-

* Referring, I apprehend, to Mr. Scot's exclusion at the first meeting of this Parliament. See *supra*, p. 347, note †, *ad fin.*

† See *supra*, p. 338, note *.

‡ The Lords.

leges of both Houses. If this stand not, we fall; nay, the Protectorate too, for he stands only upon that bottom. We must have some new children of necessity brought forth, which, how pernicious it has been, to the laws and liberties of this nation, I leave you to judge. We must, of necessity, be so lost, unless we come to such a correspondence. It is that which must be and will be. My motion, therefore, is, that you return this answer to the Lords, that you will join with their lordships in an humble address to his Highness, for a day of public humiliation.

Major-General Haines. I find several senses even amongst the persons that were privy to the first debate upon this business; and you are not yet come to a question as to the ground.

I thought always, this "other House" was a bar to a House of Lords. If you alter this, you do as materially break in upon your government, as if you should alter the title of your supreme magistrate.

It has always been my fortune to maintain what other men bring forth. I see, at the bottom, it must be King, Lords, and Commons.

This will call all the old peerage in, though they be drunkards. I am not against the nobility, and how safe this may be to have a bar upon all your laws.

It is but to make it run better than king, other House, and Commons. I speak not to oppose the title of lords, I quarrel not for names,—if I thought there were not an intention to bring in the old peers.

2. Whether they shall have more power than you have limited in your Petition and Advice. I beg of you, before this vote, that there may be some previous votes to limit the power of these gentlemen, that we may be clear upon this. Whether a bar or not a bar of the old peers; whether legally, or equitably, they are shut out; they would claim. Let the long robe clear that to us, and how limited.

My motion is for some previous votes, as to the powers and bounds of this House. If you have so cautioned that, it is indifferent to me what you call them; as also that you intend

not hereby a renewal of the old peerage ; for surely it could never be the intention of your law to set them over you.

Major Beuke. The question before you is a single question, and not perplexed ; and if there appear any—* in the bowels of it, gentlemen may decline that ; but to move for previous votes is irregular. I shall categorically give you my opinion.

As we have been tossed about, the rule to bring us to stability is to have recourse to the ancient constitution. I would not have that retorted upon me, “ then bring in popery.” The apostle recurs to the constitution, “ that which I have received.”† Our Saviour says of the corruptions of marriages, “ it was not so from the beginning.”‡

I shall clear why they should be called lords.

1. They are a Lords’ House, because they call themselves so. Consult their entries in their books, not complementally but deliberately.

2. His Highness has sworn, and the obligation of an oath is strong.

3. A House of Lords, because, as I shall make it out, you intend them so. You do not express it but by periphrasis and circumlocution.

If you had desired his Highness to take the royal dignity, did you not intend them to be a House of Lords ? I did intend them and many more. You yourselves set up a title of King, to which nothing more relative than a House of Lords.

Was not the engagement § the very argument against this other House. The book is before you. Topics enow to deduce a rise.

1. From writs of summons to issue out in due form of law ; then surely there must be in being such a form.

The long robe will sufficiently give you to know the operation of such a writ. They are, *ipso facto*, Lords. You will

* Here the MS. is illegible.

† Here is, probably, a reference, not very intelligible, to 1 Cor. xi. 23.

‡ Mat. xix. 8.

§ See *supra*, p. 279, note *.

not destroy the force of a writ, without an Act of Parliament.

2. From the power. Were not you as proper judges in writs of error, four hundred as well as seventy? In the multitude of counsellors is safety.

You looked upon them as assisted with judges, and civilians too, that might direct their judgments in such cases. The case is pretty clear.

Objection. Why not the old Lords? If we recur to things, why not to persons.

All will be against forfeited persons.

His Highness has called some of them;* a vacancy is to be filled up with such persons as are capable of sitting; though not the forfeited. No brand of drunkenness.

By writs of summons, they are, before sitting *ex gratia*, Lords; but after sitting, *ex debito justitiæ*.

A writ of summons denied to the Earl of Bristol, *tertio Caroli*,† did that make a nullity in the House of Lords? No more now, if writs be denied to some.

2. Objection. They want estates. I hear none say so, and that which is the consequence, interest they want.

They fell in disproportion before as to estates and interest too. What interest had the old peerage more than these, as it fell out.

* The Earls of Mulgrave, Warwick, and Manchester, Lord Viscount Say and Sele, and the Lords Fauconberg and Wharton: besides "Lord Viscount Howard, of Morpeth, so created by Cromwell, 1657, and upon the Restoration advanced to the dignity of Earl of Carlisle." *Parl. Hist.* xxi. 167.

† The circumstance to which this speaker refers, incorrectly as to the year, grew out of the famous feud between Bristol and that prime favourite of the two Stuarts, Buckingham, a minion worthy of his masters, is thus stated by *Rushworth*.

"Anno, 1626. 2 Car. The Earl not having received his writ of summons, petitioned the House of Lords to mediate for his liberty, and privilege of peerage; and that, if charged, he may be tried by Parliament. And upon the report of the Committee of Privileges, that it was necessary to beseech his Majesty, for him and some other Lords' writs of summons, the Duke informed the House, that, upon the Earl's petition, the King had sent him his writ." *Hist. Col.* (1703) i. 152.

There are grown men. Consider, we have a great interest in this name.

The sword is there. Is not that also a good balance? He that has a regiment of foot to command in the army, he is as good a balance as any I know, and can do more than—*

The thing you have parted with already. It remains only to have a little packthread and paper to bind it up. There remains but a shadow: shall we contend for that? I hope we shall have such compliance about privileges, when we have settled that question.

O, but the Engagement, some have not taken it. We have also taken a Covenant, I pray God that rise not up against us. It directly tended to the support of the other House.

2. This goes to throw your Lord Protector out of doors. Was it against a king, or against the thing; or against Lords, or the thing? Strange argumentations as ever I heard.

An Act of Parliament against it. That is not against the thing. There is a replevin in law as well as in fact. Consider your limits of them; for you have stated and bounded them, God be blessed for it.

We do stand in as crazy time as the people of England were in at the end of the Barons' wars. That noble man found all the Barons direct traitors; a poor handful that only adhered to the king. What does the king? He summonses gentlemen and knights just as now. You must make new ones when you cannot have the old ones. Your case is sure.

They that say set not up a king, a House of Lords, for God has poured contempt upon them;—let me retort upon them. God has also poured contempt upon a Commonwealth. Was there so much as one drop of blood when it went out; nay, I am confident, it did extinguish with the least noise that ever Commonwealth did.†

* Thus in MS.

† *Ludlow*, describing his visit in 1663, to Bern, where he and his fellow-exiles had entertained the civil authorities, adds: "Dinner being over, a question was started by Colonel Weiss, how it came pass that we, who, for many years had the whole power of the two nations

My motion is that you would correspond with the other House under the title of Lords.

in our hands, were removed from the government without shedding one drop of blood." See his answer, *Memoirs*, (1699) iii. 133—135.

Mr. Scobell, the clerk of the Long Parliament, from the commencement of the Commonwealth, appears to have very concisely disposed of his old masters, by writing in "the Journal Book," one concluding line, "20th April, 1653. This day, his Excellency the Lord General dissolved this Parliament." For "the said entry," which was ordered to "be expunged," the Clerk, "Jan. 7, 1659-60," was brought to "the Bar," when "he acknowledged that it was his own hand-writing, and that he did it without direction of any person whatsoever." *Journals*.

This apparently easy extinction of the Commonwealth was probably in the recollection of Bishop Burnet, in 1703, when, addressing the Princess Sophia, he seems "rapt into future times," as he delivers the following oracular judgment, not unacceptable to any heir or heiress, presumptive or apparent, to the British crown:—

"I know the genius of the English nation too well, to believe that ever a Commonwealth can, by any possibility, be settled among us. We *won't* be governed by one another, and therefore *must* have a sovereign to rule over us." See "A Memorial offered to her Royal Highness the Princess Sophia.—According to the Originals in the Royal Library at Hanover. By Gilbert Burnet, Bishop of Salisbury." (1815) p. 33.

It is remarkable, that one who had seen, read, and reflected so much as Bishop Burnet, could find nothing to recommend, from English literature, towards forming the character and regulating the administration of an expectant royal Executive, at the head of a tolerant and representative government, besides "The snake in the grass," of the virulent high-churchman, *Lesley*, who, in his opinion, had "so incomparably" exposed that "most dangerous sect, the Quakers," and the Bishop's "old friend *Hudibras*, the delight of the present age," who "will never be outdone by the next, nor any that shall come after." To sanction this presage and panegyric, it is added that "King Charles the Second valued him beyond any English poet that ever wrote." The Bishop had before recommended *Hudibras* to the Princess, as "in his second Canto of his third and last part, the truest historian of the affairs of England from the death of Cromwell to King Charles his Restoration."

If Bishop Burnet has here shown himself but a poor politician, (and the counsel which he gave, with Tillotson, to their friend Lord Russel, may confirm the imputation), he was, as to one point, from present appearances, as poor a prophet, when he says, "I cannot but be per-

Mr. Doddridge. Let us go with a slow foot. I am in love with the word settlement. This is an inveigling question, and carries a great deal with it. (It was intended).*

I hear it said they are a House of Lords, they will be, and shall be, and are sworn to be, a House of Lords. Let us go to the powers, otherwise I cannot tell how to give my vote.

I do move that we may be turned into a Grand Committee, that we may understand where we are, if it be but a day or two; and if it be found tedious, you may then take it up in the House, and that is my motion.

Mr. Solicitor. I doubt a Grand Committee will but spend your time. The powers are material. As to the title, I do not think they are Lords, because his Highness called them so, &c.

But you have called them another House. You have surely settled them as a Parliament, with a legislative power. You have called yourselves, four times, Commons, in one paragraph. They must stand for something. I cannot agree them to be a House of Commons. Then what can they be but a House of Lords? You acknowledge yourselves to be the Commons, and they the other House. You say that the calling of Parliaments shall be according to the laws and statutes of this realm. What law appoints another House?

If they be a legislature, how can you pass laws without a correspondence? We can do nothing. We may as well go home again, and then we leave our own constitution at a greater loose.

We have gone a good step in this Petition and Advice, that no laws shall be made, &c. but by Parliament. If only the difference be about the name, we must know by what name to correspond with them, and it is indifferent to me.

suaed that the Presbyterians especially, and the Independents too, will one day come in the Church of England of themselves." See *Ibid.* pp. xxxiii. 92, 93. *Ali-quando bonus dormitat.*

* A remark, I apprehend, of the writer of the MS., designed to insinuate that the message from the other House "was intended" to procure, by the answer of the Commons, a recognition of their title and prerogatives as the restored Upper House of Parliament.

As to the objection, the Engagement: * it is in the power of a Parliament surely to alter government. I hold no Government *jure divino*.

For my part, I know not the difference of the name. We must, for our safety and peace, correspond with the other House. The Petition and Advice binds us all yet. If we will have alterations in it, we must call them now by the title they are.

Sir Anthony Ashley Cooper. I move to be turned into a Grand Committee, for three or four days. There is a great deal more in it than appears. Admit Lords, and admit all.†

It is fit that laws should be plain for the people. We know what advantage the supreme magistrate and the other House always got by the learned's interpretation of them.‡

Mr. Attorney-General. The long preamble against the House of Lords and the law itself, is only personal. If it had not been for a House of Lords, we had not been a House of Commons. Prerogative had got far enough before. They purchased *Magna Charta*.

* See *supra*, p. 279, note *.

† This speaker could little apprehend that he was destined to become Lord High Chancellor and Earl of Shaftesbury, and, for a time, a favourite courtier of the now wandering Charles Stuart. He was, indeed, so eminently licentious, according to a well-known anecdote, as to be a worthy favourite of his royal master, though utterly unworthy to have been the patron of John Locke.

Sir Anthony would be likely to expect the revival of democratic influence, from the increasing opposition to the ambitious projects of the Protector. Thus, as the remark of the Attorney-General, which immediately follows, seems to imply, it is probable that he would "watch the sign to hate," and that his "long preamble" contained some uncourtious strictures on aristocracy, if not on regal government. These might conclude with the "warning voice," unconsciously oracular, "admit Lords and admit all." See Lord Broghill on "Charles Stuart and the rest." Vol. i. p. 357.

‡ *Whitlock* mentions, "October 22, 1650. Order touching the proceedings at law, and how to regulate them with most ease and least delay to the people." *Memorials*, (1732,) p. 475.

"October 25. Ordered by the Parliament, that all the books of the laws be put into English, and that all writs, process, and returns

You say his Highness shall call Parliaments consisting of two Houses. If you rise without settlement, will you leave

thereof, and all patents, commissions, indictments, judgments, records, and all rules and proceedings in Courts of Justice, shall be in the English tongue only; and that the same be writ in an ordinary legible hand." *Ibid.* pp. 475, 476.

The consideration of this important subject of legal reform, was resumed and continued in the two following years.

"October 8, 1651. Ordered, that the Committee for regulating the Law be revived, and sit to-morrow, in the afternoon, and so *de die in diem*, with power to confer with what persons they shall think fit." *Journals.*

"December 26, 1651. Resolved, that it be referred to persons out of the House, to take into consideration what inconveniences there are in the law, and how the mischiefs which grow from delays, the chargeableness and irregularities in the proceedings in the law, may be prevented; and the speediest way to reform the same. *Ibid.*

"January 17, 1651-2. Resolved by the Parliament, that it be referred to Matthew Hales, Esq., William Steele, Esq. Recorder of London," (then follow nineteen names,) "or any seven, or more, of them, to take into consideration what inconveniences there are in the law, and to present their opinions to the Committee of Parliament appointed for that purpose." *Ibid.*

Among these twenty-one referees was "Mr. Hugh Peters," (see vol. i. p. 244, *note* *,) who candidly says, "I rather was there to pray than to mend laws, but I might as well have been spared" (*Legacy*, p. 109, in *Harris's Lives*, i. xxv.) Whitlock, who "was often advised with by some of this Committee," says, perhaps possessed for a moment, with *l'esprit du corps*, that "Mr. Hugh Peters, the minister, who understood but little of the law, was very opinionative, and would frequently mention some proceedings of law in Holland, wherein he was altogether mistaken." *Memorials*, (1732,) p. 521.

The last-named of these referees was "Sir Anthony Ashley Cooper, Bart;" (See vol. i. p. 204, *note*,) a delinquent, though thus honourably deputed; for he was not "pardoned of all delinquency and made capable of all other privileges, till March 17, 1652-3." See *Journals.*

"January 21, 1652-3, The House this day proceeded in reading of the book containing the system of the law: and the same was this day fully read.

"Resolved, that 300 copies of the said book be forthwith printed, to be delivered to the members of the Parliament only." *Ibid.*

"The Little Parliament" (see *supra*, p. 67, *note* *) pursued this subject. "July 12, 1653," it was "Resolved, that it be referred to the gentlemen who were heretofore appointed to consider of the

it wholly to him? What power have we then reserved for ourselves? None at all. There is now a door open to settle ourselves.

It was often told us in the Long Parliament, the sun grows high, and it is time to look about us, and prepare supplies against our evenings. We must of necessity come to a correspondence if we intend settlement. They are Lords, called by writ.

I think you intended not to make seventy Barons at one time; but his Highness, who is the fountain of honour, may make them so. Some, I believe, refuse to be hereditary Lords; but as they are a body, and many of them, as we cannot deny, are Lords already, I move that you call them so.

Mr. Chute. I did not think to have troubled you yet with any words of mine, unless monosyllables.

There remains with me many scruples.

1. From your question, what appellation? It is now varied. Whether we shall give the appellation, the Lords' House?

There is a difference between the appellation of the Lords' House, and the persons to whom we speak. We will not say, may it please your Lords' House.

grievances and inconveniences in the proceedings of the law, to peruse what acts were by them prepared to be offered to the Parliament, and that there be so many copies thereof printed as there be members of this House, to be delivered to each of them one. July 30, Resolved, that there be a Committee for the business of the law." Of this Committee, "Sir Anthony Ashley Cooper," first named, was probably chairman. See *Journals*.

Whatever legal reforms were effected by the Republicans, none survived the Restoration, though some of them were adopted early in the last century. Nor, indeed, was it to be expected that *Stuarts*, any more than *Bourbons*, should possess sufficient magnanimity to apply the wise maxim of antiquity, *fas est, et ab hoste doceri*; thus happily paraphrased by Watts:—

"Seize upon truth where'er 'tis found,
Among your friends, among your foes;
On Christian, or on heathen ground,
The flower's divine where'er it blows."

We call Lords the judges, when they meet with their brethren. Less worthy that you call Lords, the Lords Commissioners. His Highness's eldest son, not improperly called Lord. So, by calling them so, you do not make them so. I hope we shall not be inveigled.

If you mean it Barons in fee, it much concerns the people. It concerns your justice to take away the titles and inheritances of the old Lords.

2. Can it consist with the foundation you are under, your Petition and Advice, upon which I cannot act till I have more trial of it. If you make them but peers for their lives, it is material.

There is nothing judicially before you as to this title. Could the judges say otherwise than they did? Does it follow that we must shut up the doors of correspondence.

His Highness said in his speech, "My Lords and Gentlemen of both Houses of Parliament." Mark the ambiguity of that speech.

The message is of great piety; if not of necessity, yet of necessariness. Must not this make the way clear for concurrence? My motion is, that you return an answer as to the message, and not meddle with the title. Haply this will begot a conference between you, and it may be they will not have what you are about to give them. You may have a better season to debate this great matter.

Sir Arthur * cried, "Very exceedingly well moved."

Colonel Shapcott. This motion is against the Orders of the House. You are possessed of this debate, and look upon it as material, and to be first determined. After you have spent some days in the debate, now to give it over, and so many worthy gentlemen ready to speak! My motion is, that you adjourn the debate till to-morrow.

Mr. Weaver. I move for a Grand Committee for three or four days. It is fit that we have some satisfaction, that were not present at your former debates. It is a matter of great consequences. We that were excluded can

* *Haslerigge*.

only judge upon what we read in the printed papers; and I am sure there is not a word of a House of Lords there.

Mr. Bodurda. I move against a Grand Committee. It is but to destroy the business. I never knew other fruits of it. Certainly we may understand one another as well by once as often speaking. Besides, if any desire to speak twice, it will not be denied.

Sir Arthur Haslerigge. I ever observed, that fencing from a Grand Committee spent more time than giving way to it. We are much beholden to that very learned man * that spoke near the post. I honoured him in my heart, and do much more now. I have received great light from him, and hope for much more. If I had but light, did I know as much as any man here, you should surely hear of it; you should have it all, whatever I knew. The worthy gentleman that spoke a while ago, was at me the other day with a long sword; † and now he is at me with my bishops' lands. ‡

I thought not to have troubled you, but now I am up, I will tell you truly why I will not take the Bishops' seat; § because I know not how long after I shall keep the Bishops' lands. For no King no Bishop, no Bishop no King; || we

* Probably Mr. Chute, (*supra*, p. 421,) who was chosen *Speaker* in Richard's Parliament.

† See "Mr. Drake," *supra*, p. 380.

‡ See *supra*, p. 233, note †. This speaker, according to Mr. Noble, "was so rich in church lands, that he was usually styled Bishop of Durham. He purchased, March 8, 1647, at the sale of the lands of that see, the palace, park, and manor of Auckland, for 610*l.* 8*s.* 11*d.*" Besides this purchase, Sir Arthur and his son expended, on similar property, nearly sixteen thousand pounds more. See *House of Cromwell* (1787), i. 405, 406.

§ His seat as one of the other House, which met in what was formerly the House of Lords.

|| A saying contrived or adopted by James I. The editor of the curious collection of documents, which I had occasion to quote, (vol. i. p. 116.) speaking of "the Conference at Hampton Court" (1603), where "Archbishop Whitgift said he was verily persuaded that the King spake by the Spirit of God;" adds "what with his arguments, and what with his authority, the Puritans lost the day, and the King became possessed

know the rule. I like your company very well, gentlemen ; and I do aspire no higher than to be a commoner of England. I had an estate left me, besides my own acquisition, that will maintain me like a gentleman. I desire no more.

This debate was waived, and the House rose at one.

I was at no Committees, it being post day.

Wednesday, February 3, 1657-8.

Sir Arthur Haslerigge had moved, before I came in, that we would declare upon our question whether we mean the old Lords or new Lords ?

Mr. Geven was moving, when I came in, to the whole system of government ; and concluded with this motion : That now we are a free Parliament, we would draw up a Bill to invest his Highness in the title and dignity of King, Providence having cast it upon him.*

of the pernicious maxim of *No Bishop no King.*" See "Truth brought to Light by Time." (1692) *Preface.*

Among the "Reasons of the present Judgment of the University of Oxford, concerning the Solemn League and Covenant," against its imposition by visitors from the Lords and Commons in 1647, is the following : "the prelatical government is best suited to monarchy, inasmuch that King James used to say, *No Bishop no King.*" See *Neal's History of Puritans*, (1822) iii. 367.

The country of James has sufficiently falsified his favourite maxim, by long acknowledging a King without re-admitting the rule of Bishops ; while many of the descendants of these Puritans, now spreading the blessings of civilization and equal government over the late "wild savannahs and boundless woods" of the Anglo-American republic, engage, at their own discretion, under governors wisely content to choose a religion for themselves, the services of bishops, "apt to teach," like those of the New Testament ; though not enjoying princely sinecures, as in a neighbouring injured island, the forlorn victim of Protestant ascendancy ; nor claiming, under a King, legislative and judicial authority, civil or ecclesiastical, as Temporal Barons or Lords Spiritual.

* This incorrect interpreter of Providence was probably one of the Protector's courtiers, and may have been instructed to make a new experiment on "his Highness's conscience." (See *Mr. Downing, supra*,

Alderman Gibbes. The Lords and Gentlemen of the other House have no investiture by the writ, into the powers and

p. 140.) The following attempt on popular opinion, evidently *ad captandum vulgus*, had lately appeared:—

“December 3, 1657. There is this day published a collection of British and outlandish prophecies, of above one thousand years antiquity; wherein is clearly foretold the several vicissitudes that hath or shall befall the sceptre of England; the late wars; the King’s death; his Highness’s arrival to the government of Great Britain; also his Highness’s lineal descent from the ancient princes of Britain; clearly manifesting that he is the conqueror those ancient prophecies speak of. Sold by Lodowick Lloyd, next to the Castle in Cornhill.” *Mercurius Politicus*, No. 392.

Mr. Noble prefixed to his *Memoirs*, in 1787, “A Genealogy of the Williams, alias Cromwells, from about the year 1066 unto 1602.” It was “then drawn up, by the order of Sir Henry Cromwell, grandfather of the Protector;” whose claim is thus established to a descent from “Glothian, Lord of Powis.” See also Prestwich’s *Respublica* (1787). p. 1.

It escaped my recollection to quote from the latter work, an account, by “an eye and ear witness,” of “the solemn investiture,” (see *supra*, p. 311, *note*,) which, till he was crowned in effigy at his funeral, gave Cromwell all the pomp of royalty which his lords and masters, the soldiery, would allow him to attain. See *Appendix*, No. 6.

In addition to what I have noticed (vol. i. p. 382, *note*) respecting the earlier project of kingship, the following is too curious to be omitted. Dr. Grey, who copied the paper from “Dr. Williams’s MS. Collections,” considers the transaction, which occurred quickly after the dispersion of the Long Parliament, as the design of an enemy, which is most probable, and justly admires “that gentleman’s courage:”—

“London, 17th Mail, 1653. Tuesday last, about Exchange time, a gentleman, well accoutred, comes hither in a coach, and brings with him the Lord-General’s picture, which he fixt upon one of the pillars thereof; which done, he walked two or three turnes there, takes his coach, and returns. After the Exchange time was over, it was pulled downe and brought to the Lord Mayor of this citie, whose, that afternoon, carried it to Whitehall, and gave it the Lo.-Generall himselfe.

“Over his said picture was written *’Tis I*; and under it this *deca-syllabon*, (the Lion being the arms of Cromwell.)

“Ascend three thrones, great Captayne and divine,
By the will of God, oh *Lyon*, for they are thine.
Come, Priest of God, bring oyle, bring robes, bring gold,
Bring crownes and sceptres; ’tis high time to unfold
Your cloyster’d bagges, yee state-cheates, lest the rod
Of steele and iron, of this your King and God,

privileges of the other House;* and I am sure there's no such power given in your Petition and Advice. If they have no more power than you have thereby given them, their commission is very defective. These powers were not hereditary to the writs of the other House, nor to the woollsacks they sit on. Admit you set up a Star-chamber, shall all the powers run along with that Court? It was moved by a young gentleman the other day, that they were not as fetters, but as a bit.†

Time was when the Lord Mayor claimed a negative upon the Council,‡ and I know what use was made of that.

I say not but the constitution may be good; but, after so much blood and treasure lost, shall we just return to our former grievances. I grant there is nothing but negative powers given them; but I have heard much said of danger, if we comply not to them as a House of Peers.

1. You can pass no laws.

Pay you in his wrath with interest. Kneele and praye
To *Oliver*, the *Torch of Sion*, a *Starre of Day*.
Shoute then, yee Merchants, Citty and Gentry sing,
And all, bare-headed, cry: *God save the King*."

See "An Examination of the Fourth Volume of Neal's History of the Puritans. By Zachary Grey, LL.D." (1739) p. 153, *Appendix* (No. lxi.) p. 98.

Dr. Grey, in another place, has quoted "a sermon in print," in his possession, "intitled 'Cromwell's learned, devout, and conscientious Exercise; held at Sir Peter Temple's, in Lincoln's-Inn Fields, upon *Romans* xiii. 1.'" (See *supra*, pp. 13, 14.) In this sermon (p. 3) the preacher thus unwittingly, not to say absurdly, adduced apostolic authority against his future favourite purpose; and indeed, by direct implication, against a single executive under any denomination.

"May not every one that can read, observe that Paul speaks in the plural number, *higher Powers*? Now, had he meant subjection to a King, he would have said, 'Let every soul be subject to the higher Power;' if he had meant one man. But by this you see he meant more than one. He bids us be subject to the *higher Powers*; that is, the Council of State, the House of Commons, and the Army." *Hudibras*, p. iil. Cant. ii. l. 118, *note*.

* Probably misreported. "House of Peers" was certainly intended.

† See "Mr. Waller," *supra*, p. 398.

‡ Common Council.

Take it into consideration, how you can make them a House of Peers, or else declare they shall have all the old powers.

2. It is said, it is implied.

Acts of Parliament had need be expressed. I see differences even amongst those that were at the debate. How shall we know the meaning that were not present; nay, how shall those that come after us?

It may be, we may be dissolved upon this very question. And it is said we have no provision for another Parliament. I am not of that opinion, while the Act of 16 *Car.* for a triennial Parliament* is of force. Parliaments will be called of course.

I doubt not but his Highness, when he rightly considers it, will regard his oath. † He is a conscientious person, and we may bless God we have such an one. Long may he live to keep us in settlement, and I am confident he will do all he can in order to safety and settlement.

He concluded his motion for a Grand Committee.

Mr. Thistlethwaite. You will never come to an end, if every gentleman take liberty to launch into the whole Petition and Advice, which cannot be altered but by consent of the three estates. I would have gentlemen speak to the merit. I shall speak to it.

Sir Arthur Haslerigge took him down, and said he spoke against the Orders of the House, for no man ought to speak to alteration of the question.

Mr. Speaker. The gentleman was not properly taken down; for any man may speak to the alteration of the ques-

* Passed February 15, 1640-1, 16^o *Caroli*, (see vol. i. p. 403.) It "enacted, that, if there be not a Parliament summoned by writ under the Great Seal of England, and held before September 10, which shall be in the third year after the last day of the sitting of the present Parliament, and so of any other in time to come, then the Parliament shall assemble on the second Monday in the ensuing November." *Rushworth*, (1706,) p. 375. See *supra*, pp. 85, 93. For the King's speech on passing this Bill, see *Parl. Hist.* ix. 218.

† See *supra*, pp. 287, note *. ; 305, note †.

tion; and he may speak to the Orders of the House, and then speak to the question, if he have not spoke before.

Mr. Bodurda. The debate upon the appellation is properly proceeded upon. I move you call them by the old name.

Mr. Thistlethwaite. You have sate fourteen days, and if you launch into this debate, you will never come to a question. There are two rocks in this debate which you may run upon.

1. The excluding of the old peerage, which have right and are a considerable party; property we ought to be tender in.

2. If you admit the title, you admit a negative voice, which the liberties of the people do claim, as their right.

I shall offer an expedient, that you give them this compliment, that you will join with their Lordships. This does not constitute a House of Lords. There is need of a day of humiliation, if it be but for the sad division amongst people that fear God. Then debate the whole in a Grand Committee.

Mr. Nathaniel Bacon. I hope you will not refer the sense of an Act of Parliament to the determination of a Committee. Nothing can do less than a Parliament, in order to the declaration of the sense of this law. It can be determined nowhere else.

Mr. Scot. It can be understood nowhere else, what was your sense, but in a Committee. Nothing so ordinary as a Grand Committee to argue this House into a sense, not to determine. The learned gentleman * told you the necessity of a Grand Committee, for which I shall honour him.

We have a saying in philosophy, *calix perforatus, non est calix*; a cap with a hole in it is not a cap, because it serves not for a cap. I can be very well content to trust God with the government of the nation.

I have been turned out of two Houses, and kept out of

* Probably Mr. Doddridge, *supra*, p. 418.

one.* I say so, because my interest is wrapped up in the common safety. I spoke my mind out freely, the second man,† because, if we must have fetters, better misery soon than—‡.

I think it is not improperly moved you, to have a Grand Committee. It is fit we should satisfy one another by reason. I am not of that gentleman's opinion (Mr. Bodurda, *inuendo*) that said, let this be the question. I will not trouble you with the reasons.

Mr. Waller moved for the necessity of a curb in the mouth,§ and was jerked for his curb by a gentleman that spoke presently after.

Mr. Darley. Tertio Caroli Grand Committees were found very useful in the asserting the rights of the people in a petition of this nature; and we got not a foot of ground but by this.||

Colonel Mathews. If we had debated this in a Grand Committee, we had not had the debate about the sense of it. You hear what success, *Tertio Caroli*, they had by a Grand Committee.

Mr. Francis Bacon moved against a Grand Committee.

Mr. Speaker. All that is moved is only for a Grand Committee as to this purpose.

Mr. Weaver. In 1654, upon the Instrument of Government, after you had spent two days upon the merit, you went into a Grand Committee; where much of the bottom of the business was found out.¶

* Mr. Scot here refers to the interruption of the Long Parliament in 1653, his exclusion in 1654, for refusing to sign the Recognition, (see vol. i. p. 273, note †) and his rejection by the Protector's council, in 1656.

† See *supra*, p. 376. ‡ The MS. illegible. § See *supra*, p. 426.

|| "March 20, 1627-8," according to *Rushworth*, "The Commons settled their Grand Committees. 22nd. Grievances were opened." The issue of the discussions was the passing of the Petition of Right, which the King confirmed, June 7, 1628. *Hist. Col.* (1703,) i. 314, 376, 391. See *supra*, p. 137, note *.

¶ This speaker was one of the *Remonstrants*, September 1656, (see vol. i. p. 262, note †.) and evidently belonging to the opposition side of the

Mr. Trevor. A prudent submission to the authority established, is better than to go the steps propounded, in a Grand Committee.

Mr. Bodurda. The plain dealing of a great many gentlemen that have spoken to this point, has given me much matter to speak upon.

They question a negative voice and a power co-ordinate with you. I understand not the matter of this debate to be, what they shall be, but what they are; not what to make them. I shall give you my reason why they are so; not by creation, but by revival. It is not this House that made them Lords, but they grew up. If this House created them, then this House may uncreate them, and the next question will be about his Highness's creation.

The Petition and Advice is a principle and not to be disputed. We are but one estate. There are other two, without which you cannot alter this principle.

The persons and number and powers are restrained. Otherwise I should have been of opinion that all might have come in, as well enemies as others, but for the restriction of the qualifications.

All these restrictions were provided against the encroachment of the other House upon the Commons: so there is a clear revival. And, if they be not sufficiently restrained, they will concur with you, to make any thing better.

It is by revival. I shall give the authority of that Parliament that took them away.* By a declaration of the

House. "The bottom of the business" probably referred to some then well-known intrigues by the Protector's adherents, to counteract republican tendencies, which sufficiently discovered themselves from the commencement of that Parliament. See vol. i. p. 273, note †.

* See *supra*, p. 388, note *. "It was put upon me," says *Whitlock*, "to draw an Act to take away the House of Lords, wherein I desired to have been excused, in regard I was not in the House when the vote passed, and had declared my opinion against it, but I could not get excused." *Memorials*, (1732,) p. 377.

The following passages will further show this learned lawyer's judgment, on another great event of that eventful time.

8th of February, 1648, they say that they will maintain the fundamental laws without a House of Lords:* so that, under favour, this is a revival of a fundamental,† save only the moss that was gathered.

If I go backward or forward, I shall follow very worthy gentlemen that have done so. I shall not debate the negative. He that will not allow a negative to a majority in this House, because they may be corrupt, will not sure admit a negative out of doors.

I do not understand that argument, because you do not say it, therefore it is not intended. You do not say that they

“January 26. I was much troubled at the passing of sentence against the King, and heartily prayed that it might not be executed. January 30. I went not to the House, but stayed all day at home in my study, and at my prayers, that this day's work might not so displease God, as to bring prejudice to this poor, afflicted nation.” *Ibid.* pp. 374, 376.

Yet, from motives which he freely states, and which were by no means sordid, he consented to employ his talents and character in aid of the Republic, after an able speech, offering “an excuse,” which “the House would not allow.” February 8. He was appointed with L'Isle and Keeble, one of the Commissioners of the Great Seal. Widdrington, the Speaker of this Parliament, declined “by reason of some scruples of conscience,” which “the House did excuse, and to manifest their respect for his former services, and that they took no notice of his scrupling their authority, they ordered that he should practise within the Bar.” *Ibid.* pp. 378, 379.

* “After the execution of Charles, six of the twelve Judges desired to be excused from accepting of new commissions.” The other six “were willing to accept of them,” but requested “a Declaration,” which “was agreed to *in hæc verba*, ‘That the Parliament of England do declare, that being fully resolved to maintain the fundamental laws of this nation, for the good of the people, and having appointed judges, for the administration of justice, in execution thereof; they do expect that they should proceed accordingly.’ This Declaration was ordered to be forthwith printed and published.” *Parl. Hist.* xix. 7.

† The Parliament passed a Declaration, at the instance, and to the satisfaction of the judges, “that they will maintain the fundamental laws without a House of Lords.” Yet this speaker, if correctly reported, would persuade his hearers, “under favour,” that those laws cannot be justly administered without the revival of such a House!

should have an usher of the black rod, and the like. You say that that in all things according to the laws they shall do.

I hope his Highness has made that choice that they have interest for that end. If not, it were well that those worthy gentlemen that have estates, and may sit there, would go thither.*

I do not understand what the gentleman means, when he says we draw all the blood upon us.† I remember not one drop of blood spilt either in taking away the House of Lords or a Commonwealth.‡

The Parliament, after the vote of non-addresses, did declare for a House of Lords.§ There is no argument but—|| in the declaration for a Commonwealth. I have often read that declaration and laid it to heart, though I have not read it these two years.

I would beseech those worthy gentlemen to consider what will be the consequence, if we come not to this settlement. Before this, your purses, your persons were disposed on, you know how, by laws made without doors.¶

It was told you, there is no provision for a future Parliament.** His Highness has told you he will receive no addresses singly.†† Here is a confession to be provided.‡‡ What will become of your liberties, laws, religion, &c.; and the sword must take place.

I never took the engagement. Those that did, I hope do not look upon themselves under any obligation by that engagement.§§

You must give them some name. “The other House,” is an *Individium vagum*. You must call them a House, of men, or women, or something that have two legs. Every

* Meaning, probably, Sir Arthur Haslerigge.

† See *supra*, p. 390, note †.

‡ See *supra*, p. 416, *ad fin.*

§ See *supra*, p. 382, note *.

|| A word unintelligible in MS.

¶ Probably meaning the Ordinances of the Protector's Council.

** See *supra*, p. 320, 321.

†† This might, probably, be inferred from the commencement of the Protector's speech, *supra*, pp. 350, 351.

‡‡ See vol. i. p. 388, *ad fin.*

§§ See *supra*, p. 279, notes.

being in the world must either be a genus, a species, or an individual of a species. I hope you will not admit them an individual of a species. They must be a species: no House of Commons, they must be somewhat else.

Five things hinder the success of Parliament :

1. When the chief magistrate is at variance with his Parliament.

2. The difference in the other House, between the great Lords. They study unity. I hope that will be no obstruction.

3. The difference between the two Houses. Then, if so, whether will you adhere to that counsel that would divide or unite ?

4. The difference in this House itself. If the vitals were preserved, I should not differ for the rest.

5. When things were not prepared against their sitting.

Here is a foundation, the Petition and Advice. More is done thereby, than has been done these sixty years for the liberty and privileges of the people. There has not been so free a Parliament these sixteen years.*

Sir Anthony Ashley Cooper. If it be not your pleasure to go to a Grand Committee, I shall offer you my opinion.

I am not of their opinion that say there is nothing in the name, and that, if you could get over that, the fast would not stick : but better abstain from that, than the people suffer. You are now upon the brink and border of settlement, and if you go further, it may be, you cannot stand.

There is nothing but a compliment to call a man Lord ; but if one call himself Lord of my manor, I shall be loth to give him the title, lest he claim the manor.

The gentlemen of the long robe will tell you there is much in names. The word King, they know, carries all. Words are the keys of the cabinets of things. Let us first take the people's jewels out, before you part with that cabinet. If you part with all first, when you come to abatement, it is a question how you will redeem them.

* A courtly assertion ; becoming " A Commissioner of the Wine-Office," and an advocate of the projected royalty.

It was told you, by a learned gentleman, that the writ makes them no more than the Instrument makes them, for the Instrument makes them not Peers for life, as the writ does not. It is very clear. We are told it revives the old Lords' House. I would fain understand where the words of revival lie. The gentlemen of the long robe say nothing of a revival.

2. There must be a way of address. I see no such necessity by the last Instrument. You passed laws without the Peers' consent, after so many days.* The negative voice

* This speaker most probably refers to the transactions which immediately preceded the execution of Charles. The Commons sent their Ordinance for the King's trial, to the Lords, to engage their concurrence. Their House was "fuller on this occasion than of late," though reduced to sixteen, if not to twelve, the whole number on their *Journals*. See *supra*, p. 387, *notes*; *Parl. Hist.* xviii. 488, 493.

The next day, on sending some members to examine the Lords' *Journals*, the Commons found that their Ordinance had been rejected *nemine contradicente*. They immediately passed a resolution "that the people, under God, are the original of all just power: that the Commons of England, in Parliament, being chosen by and representing the people, have the supreme authority of this nation." *Rushworth* (1708) vi. 561, 562. See *Whitlock*, pp. 366, 367.

They next proceeded to pass, on their sole authority, "an Ordinance for trial of Charles Stuart by a court-martial." *Ibid.* p. 367. The terms of this Ordinance show the just notion which the anti-royalists entertained of the condition to which the King had reduced himself by levying war upon the Parliament. He had indeed become, by defeat, a prisoner of war surrendered at discretion, according to the doctrine maintained by Lord Orford in his Defence of the Regicides, (See *supra*, p. 387, *note*.) Another nobleman, distinguished among Dukes by his able advocacy of popular rights (see vol. i. p. 406, *note* †), and who was a lineal descendant of Charles, was reported to have said once, in the House of Lords, that he would never attend the church service for January 30, because he believed that his ancestor suffered justly.

The Lords, however, while they refused to concur with the Commons in bringing Charles to justice, were disposed, at their next meeting, to provide against any future infliction of royal despotism. They appointed a Committee, January 9, though now reduced to seven, to bring in an Ordinance, "that whatsoever King of England shall hereafter levy war against the Parliament and people of England, shall be guilty of High Treason, to be tried in Parliament." *Parl. Hist.* xviii. 501.

On this vote, the expiring voice of that House, till their revival at

was denied the King. You know it was. Thus laws passed without the King's concurrence.*

Consider, let us not lay foundations that we may repent. They must be extant for the future.

Sir Arthur, Colonel Shapcott, Colonel Birch.†

Major Morgan. A Grand Committee has been observed to be destructive to a business, or dilatory: to lay it aside by a side wind, rather than to prosecute it with vigour. It is not so fit at present. We have been in the nature of a Grand Committee already. Many have multiplied their speeches; and you may give that liberty.

Mr. Turner. I come here with a spirit not to dispute what is settled, and this is the foot upon which all depends. Explanations are necessary. I find not that it had the solemnity of other Bills. I do own it, notwithstanding. You were forced to explain before, and may not we, upon better counsel, explain, as in *Articuli super Chartas*.‡ Neyer more need of a Grand Committee; but why may not we give them the appellation of Lords and Gentlemen.

Colonel Mildmay, Mr. Vowell, Sir Arthur, and Colonel Shapcott.‡

Mr. Rennell moved for some previous votes.

Mr. Drake moved against a Grand Committee, and to put the first question.

It was moved that the question be, whether the question shall be put for a Grand Committee, and put accordingly.

Mr. Speaker declared for the *Noes*.

Sir Arthur Haslerigge and *Mr. Vincent* for the *Yeas*.

The House was divided. The *Noes* went out.

the Restoration, see Algernon Sidney's Remarks, and Mr. Godwin's strictures, in his "History of the Commonwealth." (1836) ii. 663.

* In the Militia Act, (1642), "The Lords and Commons," according to *Rushworth*, declare that "though the King has refused his consent, it ought to be obeyed; the King's sovereignty not enabling him to destroy, but to defend his people." *Hist. Col.* (1708) iv. 299, 301.

† No report of their speeches in the MS.

‡ 28 Edw. I., in confirmation of *Magna Charta*.

Yeas 86. Mr. Barrington and Mr. Lucy, Tellers.

Noes 86. Mr. Waller and Mr. Inglesby, Tellers.

Mr. Speaker was going to declare.

Mr. Fagg. I move to the orders of the House. When the question was put, I and another gentleman came in. I shall name him if you please. It was Colonel Grosvenor.

Colonel Grosvenor stood up, and said, he came in before the question was put.

Mr. Fagg said, he thought the negative was put; and it bred a great debate.

Mr. Bodurda. One gentleman that was upon a double return gave his affirmative in this case. I see his name upon the door. I shall name him. It is Mr. Heely.*

Colonel Shapcott said he was mistaken; for Mr. Heely did not sit upon a double return; and it was waved.

Mr. Fagg was called on again, and did affirm that the negative was put when they two came in together.

Colonel Grosvenor affirmed, that he was here before the negative was put.

Mr. Butler stood up to matter of fact, and said those two gentlemen were at the fire-side when the first and second negative was put; and he came to the door, and went back, and was too late; and yet he was before there.

Colonel Grosvenor affirmed, upon his honour, that he was present at the first negative.

Mr. Butler said he was not present.

Mr. Gewen moved, that all that were in the Committee Chamber might come in after the question, and give their vote.

Mr. Robinson cited a case where, in the Long Parliament, two persons, viz. Sir Philip Stapleton and Mr. Denzil Holles, withdrew upon a question about a business from the Lords' House about a Countess; and they were observed to withdraw, and commanded to give their votes.

Mr. Speaker said it was well moved, and he remembered the case; he was present.

Mr. Doddridge. I move that the question be, if Mr. Fagg must give his vote.

* James Heely, M. P. for Salisbury.

After a long debate, Mr. Fagg was called to declare, and he said he was an *Yea* ; and so declared by Mr. Speaker.

The main question being put,

Mr. Speuker declared for the *Noes*.

Sir Arthur Haslerigge for the *Yeas*.

Yeas 87. *Sir Anthony Ashley Cooper* and *Sir John Thorowgood*, Tellers.

Noes 93. *Mr. Trevor* and *Colonel Grosvenor*, Tellers.

So it passed in the negative.

Mr. Speaker acquainted the House that there were two judges at the door from the Lords.

Mr. Weaver. I move that you receive no more messages till you be over this rock, lest you fall upon another rock.

Sir Arthur Haslerigge. I move against calling them in. This looks like a House of Lords. I tremble to think of wardships* and slavery. I am against it ; and I could speak till four o'clock. If I had been of the other House, I should not have advised to have sent another message, till you had resolved in this. I can suffer to be torn in pieces, and to have ropes tied to me. I should endure that ; but to betray the liberties of the people of England, I cannot. Having spoke my conscience, I will say no more.

Colonel Cox. When you would have had a King, I was a negative, because you were not a full and a free House ; but now I should be an affirmative. But as to this question, till you declare them Lords I cannot give my consent that they shall be called in by that title. I move them as another House, but not as a House of Lords.

Mr. Scot moved against calling them in, till the other question be determined.

Mr. Robinson. If you now call them in, you admit another House of Lords, and consequently three houses.

I am sorry that we must be put to send to one another. I liked their society very well. They did us good service here. I am sorry to find you upon this debate. Jurisdictions

* See Scobell's *Acts*, (1658) part i. p. 98, part ii. p. 375. Wardship was finally abolished, with purveyance, (see Vol. i. p. 81), 1660. *Parl. Hist.* xxiii. 67.

debated in the House, I have always observed to be mischievous.

Better to leave the people to Providence than to deliver them up as to their liberties to a clear negative in all things.* The message may well keep cold.

You cannot interrogate the judges in this House, whatever the Serjeant may privately ask them. They can say nothing but what is delivered to them ; and if you should ask them they would not answer you.

Mr. Hoskins. I move to decide it by a question, and act accordingly, that the messengers be called in.

The messengers, viz. Windham† and Newdigate,‡ were called in accordingly.

The message was, to join with them in an address to his Highness, for a proclamation to issue out from his Highness, with the concurrence of the two Houses of Parliament, for banishing all papists and delinquents twenty miles from London.§

* See this republican "deliver up the people" to the "grace and goodness," and to the "clear negative" of Charles Stuart, vol. i. p. 363, note *.

† See *supra*, p. 340, note *.

‡ Richard Newdigate, now a puisne judge of the Upper Bench, "made Lord Chief-Justice by the Commonwealth in 1659." He was "again called to be a serjeant, 1660 ; created a Baronet 1677, and died 1678." See Noble's *Cromwell*, i. 431. The lawyers of that revolutionary age, appear generally to have had no inclination to "fall, uncourtly, with a falling court."

§ *Whitlock*, now one of the other House, was, probably, ashamed of the spirit displayed in this application. He merely says, "Feb. 3. The House of Lords sent another message, by two judges, to the House of Commons." *Memorials* (1732), p. 672. This persecuting spirit, yet "lingering and loth to depart," was not only indulged against papists after the Restoration, so far as the Court's inclination would permit, but appears, by the following document, to have survived, in all its vigour, the Revolution :—

"1690, 10 Dec. Ordered, that no papists do presume to come into Westminster Hall, the Court of Requests, or Lobby of this House ; during the sitting of this Parliament ; and this order to be pasted up at Westminster Hall gate, and in the Lobby of this House, and that the

Sir Arthur Haslerigge. You see where we are. I trembled to hear this message. The first thing they offer,* is to invade the liberties of the free-born people of England, which are inherently in this House. Their message is to banish men, which may light upon any of us. I beseech you, let us not hear of such a message.

Mr. Pedley. I move that you put off this, till you come to some resolution in the other debate.

Mr. Trevor. I move that you return the same message as before; there being the same reason, and certainly no danger in it.

Mr. Turner. This message varied from the other. They did not call themselves Lords.

Mr. Robinson. We shall admit them by piece-meal

Serjeant-at-Arms attending this House, do take into custody all such persons as shall offend against the said Order." See "Orders of the Commons." (1756) pp. 9, 10.

To Englishmen, and, perhaps, Englishwomen, thus branded by a barbarous degradation, to the indelible disgrace of Protestant ascendancy, and liable to become the sport and bye-word of Protestant lacquies and link-boys, the boasted "Bill of Rights" was a cruel mockery, or, in the language of an acute political work, prosecuted but never answered, "a Bill of Wrongs and Insults."

* According to *Whitlock*, (for there exist no Journals of "the other House,") besides these messages, the following comprised their whole occupation:

Jan. 21. They appointed Committees for privileges and petitions.
27. They "kept a day of humiliation within their own walls."
30. "Taking into consideration the state of affairs, relating to foreign Princes and states," (perhaps led to the subject by the Protector's speech,) "and particularly to Sweden;" they heard from *Whitlock*, "a full account" of his "negotiation in Sweden, with which the House seemed greatly satisfied." *Memorials*, (1732) p. 672.

Thus, unlike those they had left in the now stormy region of the House of Commons, the Protector's "other House" still "kept the noiseless tenour of their way." They were, indeed, not unlike a modern convocation, which assembles at the meeting of every new Parliament. Since the reign of Queen Anne, they have not been suffered to transact any business but that of an adjournment *sine die*, except, perhaps, (1696) the *seasonable* presentation of an *anti-catholic* address.

till we cannot go back. Admit two or three of those messages, and admit all.

I wonder why we must be so hasty in returning an answer. If we be thus ready, we shall scarce be a minute without a message, and so, by degrees, grant them that is desired before we come to any determination.

It is not long since they got the title of Lords. Anciently, all were upon one footing of account, and they are but at most created by you.

They are persons of as much desert as any in the nation, I speak it without flattery; but their title and power I cannot admit. I would have this originally from yourselves.

Though they have been our enemies, (the Cavaliers, I mean, it is known I am not suspected to be a friend of theirs*) yet we being intrusted with their liberties amongst others, let us not betray them. It may be our cases by this rule. It is the undoubted right of the House to have judgment of the people's purses, persons, privileges, and liberties. We are sworn to maintain them, and if we part with this we part with all.

My motion is, that you would not return any answer at all at this time. It may very well keep cold. The judges will take no harm by their attendance; for when you rise they will be discharged, and may come again to-morrow.

Mr. Scot. I move to enter a salvo, that it shall not prejudice you; or otherwise, return an answer to them as to "the other House."

It is not enough that they christen themselves, but they christen you, that you are Commons. I am not ashamed of the title, it being the greatest honour under heaven to serve the people in the meanest capacity in this House; all power being originally in the people. I observed this was used as an argument the other day, that you had received a message from them by that title. He that deceives me once, it is my fault if he deceive me twice. Modesty (it is Tertullian) may

* See the reference, *supra*, p. 438, note †.

bring a man to misery. The Greeks were destroyed, many of them, because they could not say no. They are, at best, but originally from you.

Mr. Hungerford. I move, as they have called themselves Lords, that you own them by the name of the "other House;" and let that be your message.

Sir Arthur Haslerigge. We have wise men to deal with, else they had not been called to sit there, and what is moved you for addition to the message, "other House," you may add it.

Mr. Attorney-General. I move that you add, the "other House."

Mr. Trevor and *Mr. Bodurda* moved against the addition of the words.

Colonel Lister moved for no answer at all to be returned, till to-morrow.

The question being put for adding these words, "to the other House."

Mr. Speaker declared for the *Yeas*.

Mr. Trevor for the *Noes*; but was afterwards satisfied; so it was

Resolved, that the words be added accordingly.

The judges were called in again, and had this answer: That this House would send an answer to the other House by messengers of their own.

The House have adjourned the debate about the appellation of the other House till to-morrow at nine, and did rise at three.

In the Exchequer Chamber, sat the Committee of Privileges, Colonel Chadwick in the Chair.

In the Court of Wards, the Committee upon Ministers' Maintenance,* *Mr. Scot* in the Chair.

In the Speaker's Chamber, the Committee for Huntingdon's Uniting Parishes. *Mr. Pedley* in the Chair.

* See the *Act*, (1650), "for further provision for ministers, and other pious uses," and the references: *Scobell*, part ii. pp. 111—116.

Thursday, February 4, 1657-8.

When I came in, I found

Sir Arthur Haslerigge moving for a new writ to issue out, for choosing a Member for Hereford.

Mr. Scot stood up and seconded that motion.

Mr. Bodurda. There cannot a writ issue out under the old form; for then it must go in the King's name (*rex*). You must first make a new writ, as part of your legislature. There must be first a correspondence between us and that other House. His Highness has resolved to have it by that title. I desire you would go to that question.

Mr. Chute made a Speech, that the motion was good, but not well timed. He moved, instead, to put it off till the greater business be over.

Mr. Darley. I move to put this off your hands. Refer it to a Committee. This business is a great business. The "other House" are at best but your younger brother, and by the rule of heraldry they ought to bear a distinction.

Mr. Onslow. You have spent three days' debate about this business.

The order of the day was read.

Mr. Speaker propounded the question twice.

Colonel Cox. I have not spoke to this debate. This is the first time that ever I heard a House of Lords spoken of.

They were talked on, to be a balance.*

Lord Strafford.†

* See vol. i. p. 384.

† Here is a blank, designed, no doubt, to have been filled up from recollection of the debate. This Speaker had, probably, drawn some conclusion for which the versatile political life of the Earl had supplied the premises. His talents, and the courtly prostitution of them, so fatal to their possessor, have been well described by his contemporary, Thomas May, who compares "the Lord Wentworth," to "the Roman Curie,"

Sir John Suckling.*

Mr. Noy, when once he came to be Attorney-gene-

thus translating the passage ; *Haud alium tantâ*, &c. which he quotes from *Lucan* :

“ A man of abler parts Rome never bore,
Nor one to whom (whilest right) the lawes ow'd more.
Our State itself then suffer'd, when the tide
Of Avarice, Ambition, factious Pride,
To turne his wavering minde, quite crosses began :
Of such high moment was one changed man.”

See “ The History of the Parliament,” (1647). Ed. 2. By “ Francis Maseres,” (1812), pp. 13, 14.

This able historian, also “ Secretary for the Parliament,” whose monument was destroyed, and the sanctuary of his grave violated, at the Restoration, with those of Blake and others (as Wood testifies, “ by virtue of his Majestie's express command,” whose “ vengeance,” says Dr. Symmons, “ extended itself to mean and atrocious outrages on the dead,”) has received distinguished praise from Bishop Warburton, and a still higher commendation from the Earl of Chatham ; thus expressed to his nephew Lord Camelford, in 1754. “ I desired you, some time since, to read Lord Clarendon's History of the Civil Wars. I have lately read a much honester and more instructive book, of the same period of History. It is the History of the Parliament, by Thomas May, Esq. I will send it to you as soon as you return to Cambridge.” *Ibid.* p. x.

• Here is another blank in the MS. Sir John Suckling, whose father had been Secretary of State to James, and Privy Counsellor to Charles, is now only known as a dramatic writer, and a versifier not very remarkable for poetic, and still less for moral, taste. The following passages, from *Rushworth*, will discover him to have been a plotting politician, to which circumstance this Speaker probably referred :—

“ May 3, 1641. Mr. Pym acquainted the House concerning divers informations given in, of desperate designs against the Parliament and peace of the nation, the conspirators being under an oath of secrecy. That they attempt to disaffect the army against, and bring the same up to overcome, the proceedings of Parliament ; as also there was a design upon the Tower, and endeavours used for the Earl of Strafford's escape.

“ May 5. Colonel Goring being examined in the House of Commons, confessed that Sir John Suckling first made overtures unto him concerning the Army's marching towards London.” See also, “ June 16, a Report from the Committee.” *Hist. Col.* (1708.) iv. 70, 78, 107, 108. See *Parl. Hist.* ix. 304, 307, 374—379, 501, 517.

Davenant, according to *Wood*, was “ accused to be one of the Conspirators.” He adds, “ Henry Percy, brother to the Earl of Northumber-

ral, was the greatest enemy that the liberties of England had.*

land, was one. Hen. Jermyn (afterwards Earl of St. Alban), and Sir John Suckling, were two more, who all escaped." *Athen. Oxon.* (1692.) ii. 293. See May's History, pp. 65, 66; *Breviary*, (1655), in Masceres's "Select Tracts," (1815), i. 29. Jermyn, a constant attendant on the widowed Queen of Charles, was supposed to have been privately married to her at Paris.

Sir John Suckling had "made a Campaign under the Great Gustavus Adolphus, where he was present at 3 battles, and 5 sieges. After his return to England, he raised a troop of horse for the King's service, entirely at his own charge, so richly and completely mounted, that it stood him in 1200*l*." He was, however, ridiculed "for a show of finery which he affected in decorating his troop." His death, at an early period of the war, is said to have been hastened by chagrin, because "his zeal for his Majesty did not meet with the success it deserved." See *Cibber's Lives* (1753), 1, 296, 297.

Davenant, the other plotting poet, had also a command in the royal army. In 1650, according to *Wood*, he had a project of emigration, the success of which would have placed him among the earliest promoters of Arts in the New World.

"Having laid an ingenious design to carry a considerable number of artificers, chiefly weavers, from France to Virginia, (being encouraged thereto by Henrietta Maria, the Queen-Mother of England, who got leave for him so to do from the King of France), he did effect it so far that he and his company were shipped in their way thither, and had got on the main ocean; but being soon after seized on by certain ships belonging to the Parliament of England, he was carried prisoner to the Tower, in order to be tried for his life in the High Court of Justice; but, upon the mediation of John Milton and others, he was saved, and had liberty allowed him as a prisoner at large." *Athen. Oxon.* (1692), ii. 293.

For the probability that Davenant gratefully remembered this service, in the hour of Milton's imminent peril, on the Restoration, See *Richardson*, (1734), pp. lxxxix. xc; *Todd*, (1809), p. 101; *Symmons*, (1810), p. 489.

* "William Noy," says *Lloyd*, "born in Cornwall, was bred in Lincoln's-Inne. He was a man passing humorous, but very honest; clownish, but knowing; a most indefatigable plodder, and searcher of antient records, verifying his anagram:—*I moyl in law*."

"He was for many years the stoutest champion for the subject's liberty, until King Charles entertained him to be his Attorney. No sooner did the King show him the line of advancement, but, quitting all his former inclinations, he wheeled about to the prerogative, and made amends with his future service, for all his former disoblancements." *State-Worthies*, (1670) p. 892.

Baron Thorp. I was one of those that did freely and heartily give my consent to take away the House of Lords ;

Noy " became a sojourner of Exeter College, in 1593, aged 16." He was chosen to the Parliaments of 1620, and 1623. In the Parliament of 1625, "as in another following, showing himself," says *Wood*, "an enemy to the King's prerogative, as before, he was at length diverted from his proceedings by being made Attorney-general." *Athen. Oxon.* i. 506.

This *diversion*, Lord Clarendon attributes to "great industry and importunity from Court," by which he was "persuaded to accept that place, for which all other men laboured." Persuaded, however, he was soon prepared "to be an instrument in all their designs," (and whatless would courtiers expect, or satisfactorily receive, from an Attorney-general?) "He moulded, framed, and pursued, the odious and crying project of soap; and with his own hand, drew and prepared the writ for ship-money." *History*, (1705) i. 73 See vol. i. p. 407; ii. p. 214.

Whitlock names Noy and Wentworth, among the "members taken off" in 1629. He says, "1634, Mr. Attorney Noy, having set on foot the tax of ship-money, leaveth it, and the world. He died of the distemper of the stone." *Memorials*, (1732) pp. 13, 22.

Rushworth says, when this "famous lawyer of that age died, papers were put upon posts, reflecting on him, that there was found in his head a bundle of proclamations; in his maw motheaten records; and in his belly, a barrel of soap." *Hist. Col.* (1706) ii. 171.

Howell, in a Letter to Lord Savage, who appears to have been Noy's patron, says, "Master Attorney-general Noy is lately dead, nor could Tunbridge Waters do him any good. The Vintners drink carouses of joy that he is gone, for now they are in hope to dress meat again, and sell tobacco, beer, sugar, and faggots; which, by a sullen *capriccio* of his, he would have restrained them from." *Howell* mentions the anagram, and thus describes the peculiar corporeal and mental constitution of this learned lawyer, "Though he had good matter in his brain, he had, it seems, ill materials in his body; for his heart was shrivelled like a leathern penny-purse, when he was dissected, nor were his lungs sound.

"Being such a clerk in the law, all the world wonders he left such an odd will, which is short, and in Latin. The substance of it is, that he, having bequeathed a few legacies, and left his second son 100 marks a year, and 500 pounds in money, enough to bring him up in his father's profession, he concludes, *Reliqua meorum omnia primogenito meo Edwardo, dissipanda, nec melius unquam speravi ego.* "I leave the rest of all my goods to my first-born, Edward, to be consumed or scattered, for I never hoped better." *Epistole Ho—Elianae*, (1754) p. 256.

Noy's last learned occupation was "A Treatise on the Rights of the Crown," left in manuscript at his death, and "first published" in 1713. Among many curious particulars, the result of much antiquarian research,

and my only reason was their negative voice. They stood so as a screen between you and the King, that you could not address to the King but by them, and though they said they would send——.

I beseech you consider the gospel.* You are going to build a house. Consider the cost that you will be at with building the Tower. I have no quarrel to Lords, or Lords' House, but the attendances I fear. First charge, what will become of your old Lords?

1. The charge of injustice; to take away them and their birthright, which they brought into the world with them.†

he points out, from precedents in "motheaten records," the means of "raising the revenues of the crown" not only "by grant of the subject," but in a manner more acceptable to his royal master, "by power absolute in the sovereign."

Among the royal resources, described in this small volume, it is related, *Ex. Rot. Turr. in temp. Elis. Reg.*, that "the Queen, to ease her people, did pawn the jewels in the Tower; besides the often mortgaging of her lands." *Treatise*, p. 40.

The Queen of Charles partially followed this example, by pawning the crown-jewels in Holland, to subdue, and not to ease the people.

* *Luke* xiv. 28.

† See Colonel Sydenham, *supra*, p. 299. The early origin and the progress of the English peerage, I find thus described among the "ancient customes of England," by a learned lawyer of that age, W. Hake-well of Lincoln's Inn:—

"Being desirous, for my own particular satisfaction, to search and inquire after revered antiquity, it was my hap to light on an old manuscript; which, although in sound is Saxon-like, yet in some things it savours of the Danish matters, and of the ancient British laws under the Rule and Government of the Danes: which writing, writ in the Saxon tongue, I have translated into English, word for word, according to the true sense and meaning thereof:—

" 'It was some times in the English Laws, that the People and the Laws were in Reputation; and then were the wisest of the People worship-worthy, each in his degree, Lord and Chorle, Theyn and Under-Theyn. And if a Chorle so thrived, that he had full five hides of his own Land, a Church and a Kitchen, a Bell-House and a Gate, a Seat and severall Offices in the King's Hall; then was he, thenceforth, the Theyn's right-worthy. And if a Theyn so thrived, that he served the King, and on his message or journey, rode in his household; if then he had a Theyn that him followed, who, to the King's expedition five

2. The charge of your negative voice. What will that cost you? Before you prescribe the rules, first circumscribe them; and I will freely give my consent as any.

To advise and consult with you, as the Petition says,* but not to control. I know what a word here, and answered out of doors, will do. It will do wonders.

The last words of the Petition whip up the heels of whatever you have done in the Petition and Advice; so that all that ever you have limited them in, is gone.† And if you call them Lords, that will be claimed, and easily holden out.

I do plainly speak my mind and shall do. I acknowledge the old constitution, by Lords and Commons, to be the best constitution; I ever thought it. But if we are now returning to what we were; what have we got by the war.

1. Ascertain them in your proceedings.

hide had, and in the King's Pallace his Lord served, and there, with his errand, had gone to the King, he might afterward with his fore Oath his Lord's part play, at any need. And if a Theyn so thrived, that he became an Earle, then was he right forth an Earle right-worthy. And if a Merchant so thrived, that he passed thrice over the wide sea of his own craft, he was thenceforth the Theyn's right-worthy. And if a Scholler so thrived through learning, that he had degree, and served Christ, he was, thenceforth, of dignity and place so much worthy, as thereto belonged; unlesse he forfeited so that the use of dignity might be taken from him.'

"These ruines of Antiquity make shew of a perpetuity of Nobility, even from the beginning of this land. But times are changed, and we in them also. For King Edward the Confessor, last of the Saxon blood, coming out of Normandy, bringing in then the title of Baron, the Theyn from that time began to grow out of use; so as at this day, men remember not so much as the names of them. And in process of time, the name of Baronage began to be both in dignity and power so magnificent above the rest, as that in the name of the Baronage of England, all the Nobility of the land seemed to be comprehended. As for Dukes, they were (as it were) fetcht from long exile, and again renew'd by King Edward the Third. And Marquesses and Vicounts were altogether brought in by King Richard the Second and King Henry the Sixth." *Modus tenendi Parliamentum*, (1660), pp. 96—99.

* "To give their advice and assistance." *Parl. Hist.* xxi. 180.

† A reference to the conclusion of "the humble Additional and Explanatory Petition and Advice." See *supra*, p. 391, note.

2. Take care for the old Lords.*

3. Take care about the negative voice.

And till then†

Mr. Fowell. I must differ from these worthy gentlemen, that you are now building a House. You have built the old House of Lords. We have a maxim in law, the composers shall have the explication.

You are under the Constitution by three estates, two Houses of Parliament, and a single person. What shall the two houses be? Shall they be two Houses of Lords, or two Houses of Commons?

A house divided cannot stand. You do more than all the Cavaliers could ever do. This is the way to open the bag, indeed, at both ends. We know no other name for the two Houses, but Lords and Commons. The King was, and so is the Protector, the fountain of honour.

It is clear they are Lords by the writ. It is clear in Nevil's and Lord Delamere's case. (Lord Coke's first part of Institutes.)

The barons have always done you greatest service. Amongst the other House, you had a gentleman‡ that first set

* The "old Lords" for whom alone this Parliament could have been expected to "take care," in any sense of the expression, were those who had transferred their allegiance from the Crown, to the Republic and the Protectorate. They must have been very few, considering the small number who met in 1649, (See *supra*, p. 434,) just before the abolition of their House. At the meeting of the Long Parliament, (1640,) the Lords amounted to 124, and on the return of royalty, (1660,) to 151, including a few creations. Among these, were Denzil Holles, and Ashley Cooper, who now began to "have their reward." See *Parl. Hist.* ix. 1—8; xxii. 332—335.

† Blank in the MS.

‡ The Earl of Essex. In July, 1642, he was appointed Captain-General, and the Earl of Bedford (who, in 1643, deserted to the King, at Oxford, and returned again to the Parliament,) General of the Horse, at the first formation of an army going forth under the professed authority of the King and Parliament, to fight against, and possibly to slay the King. Essex, indeed, in his speech at the head of his army, declares they are "assembled for the defence of His Majesty," and again "for the securing of His Majesty's royal person;"

his foot in the Red Sea, like Moses, to head your army. He was not suffered to carry on all the work;* but God raised

(See *Parl. Hist.* xi. 436,) as if, when attacking the King's army, under his immediate command, a bullet or a ball would distinguish persons, royal or plebeian. The Episcopalian justly reproached the Presbyterian Royalists of that age, for freely hazarding the destruction of their King in battle; their preachers too, riding in the Parliament's army to animate the soldiers; and yet regarding his person as sacred every where else, shocked at the thought of shedding "the least drop of the blood of a King." See *supra*, p. 320, *note*. Thus, in 1513, just before the battle of Floudon, the Earl of Surrey, (according to Lloyd's *Worthies*, p. 144), "sends *Rouge Croix* to the Scotch King, to tell him, that he expected as little mercy as he intended; his sword being commissioned to spare none but the King, whom no hand must touch." Yet, so uncourtly and indiscriminating is the sword, that James IV. was left among the slain.

Ludlow, whose notions respecting forms of government, and the just extent of popular rights, differed materially from those of *Essex*, bears the following testimony to his high integrity:—

"The two Houses voted the Earl of *Essex* to be their General; whom the King, (to take him off from the public interest,) had lately made Chamberlain of his Household. But this could not corrupt the Earl of *Essex*, nor hinder him from discharging vigorously that trust which the Parliament had reposed in him." *Memoirs*, i. 40.

May, having described this appointment, as "by a great and unanimous consent of both Houses," adds, "when they sought a Lord to undertake the high charge of commanding in chief, there seemed to be no choice at all; but we may say of this election, as *Paterculus* did of another, *Non querendus erat quem eligerent, sed eligendus qui eminebat*." See "History of the Parliament," p. 138.

Whitlock, however, charges *Essex* with losing two opportunities during the first campaign, of putting an end to the war, by following too implicitly the advice of the "old soldiers of fortune," and he names "Colonel *Dalbier*," (on whose authority Lord *Holles* was prompted by folly or malignity, to "that weak attempt," as Lord *Orford* styles it, "to blast *Cromwell* for a coward.") *Memorials*, (1732,) pp. 64, 66. See Mr. *Godwin's* estimate of the patriotism of this first Parliamentary General, *Commonwealth*, i. 34—36.

* On the new model of the army, in 1645, *Essex* was succeeded by *Fairfax*, who resigned the chief command to *Cromwell*, on the expedition against the Scots in 1650. *Essex* dying in 1646, was honoured with a public funeral in Westminster Abbey. The procession was thus described in a letter to a friend by Robert Boyle, whose serious

his Highness to perfect it ; and those worthies that assisted in it, his Highness hath rewarded them, by calling them to the other House.* They are Lords.

Their extravagancies are lopped off.

I am of opinion that they are Lords ; and you cannot annex a custom to a new House ; for it must have time to be a custom.

My motion is, that you concur with them in that title. You cannot alter it by bill.

Colonel Matthews. The Commons of England have no places, no offices to give ; as we shall expect none from them. All we have to do is clearly to understand how we part with their liberties.

strictures on " Death's fopperies," written in his 20th year by one who became so justly eminent, cannot be uninteresting.

" This day, with kingly state, was buried the great Earl of Essex, having four hundred officers, not one so low as a captain, the House of Peers, the House of Commons, the City, and the Assembly of Divines, for his mourners ; and all the other parting compliments of honour, that ever subject could aspire unto. But I have usually observed, that in these great funeral solemnities, the pageantry of sorrow has eaten up the reality ; and the care of the blaze diverted men from mourning. Besides, these costly flatteries of the dead (with neglect of the poor, whom that charge might keep alive,) seem to endeavour to make them guilty of prodigality in their very graves, whilst it wastes that upon a senseless carcase, that is to it as useless as it is needless ; whereas it were much better for them to procure the prayers of the living, than their admiration." See Dr. Birch's " Life of Robert Boyle," (1744,) p. 61.

* Among the sixty-three persons nominated to form that House, ten had been distinguished during the war. These were the Earl of Warwick, who had commanded the fleet of the Parliament, and the Earl of Manchester, in whose army the Protector had served. (On the accommodating policy of this earl, see *supra*, p. 387, note *) Another of " those worthies," was Montague, who, after an honourable service under the Commonwealth, was employed in 1660 to bring over Charles Stuart, and rewarded with the Earldom of Sandwich. Such has been too often the *iter ad honores*. There were also Fleetwood, Disbrowe, Skippon, Whalley, Pryde, Ingeldsby, and Monk.

The Protector found great difficulty in filling his " other House," (as Thurloe informs Henry Cromwell) " between those who were fit, and not willing to serve ; and those who were willing, and expected it, but were not fit." See *Parl. Hist.* xxi. 167, 168.

There is nothing so clear but that it is a new House; and it is asked what shall it relate to? It relates to the House of Commons. You may, no question, divide this House into two or three Houses.

If it had not intended another House,* it would, in express terms, have said so; but not a word of that restitution in your Petition and Advice; not a word of repealing the Act against the House of Lords.†

It was in debate, the negative voice in the legislature.

1. The great reason was then, that Bills passed too hastily here; that you could not debate laws here.

2. A judicial power. Complaints from Courts of Justice and Equity, which would take up much of your time. That you might attend the business of safety and monies, &c., here was your ground of another House. There was something of that in the proceedings against that wicked person Nayler,‡ that you wanted a power in such matters.

I am not against the name of Lords by way of appellation, as an honour to them; but to give it with all the powers and privileges, I cannot consent.

The ground of the quarrel with the King was his invasion upon the people's liberties, and the negative voice.§ You

* Than a revived House of Lords.

† See *supra*, p. 388, note *

‡ See Vol. I. pp. 246, 370, note †.

§ I am not aware that the right of the King to "the negative voice" was disputed by the Parliament, till they proceeded to enforce as legal, the Ordinances of the Lords and Commons, passed without his authority; yet not renouncing, as they ought consistently to have done, their own allegiance, which they justly deemed conditional.

Sir Thomas Smith, (in 1565,) describing the "order and forme" of presenting Bills for the royal assent, says,—“What the Prince doth allow, to such he saith, *Le Roy*, or, *la Rayne le veult*. And those be taken now as perfect lawes and ordinances of the realm of England, and none other. To those which the Prince liketh not, he answereth, *Le Roy*, or *la Rayne s'adviseira*, and those be accounted utterly dashed, and of none effect.” See “The Commonwealth of England,” (1633,) p. 95; *Modus tenendi Parliamentum*, on “the passing of Bills,” (1659,) p. 182.

This right the last of the Tudors appears to have largely exercised.

“Feb. 9, 1597, (39 Elizabeth.) Her Majesty gave her royal assent to twenty-four public Acts, and nineteen private; and refused forty-

know what declaration was put out then, to which the King was sworn. It was then thought the House of Lords could

eight, which had passed both Houses." *Lex Parliamentaria*, (1690,) p. 198. Camden says, under that year, the Queen "made several laws very acceptable and pleasing to the people," without noticing these extraordinary refusals.

In 1692-3, William III. refused the *royal assent* to a Bill "for the frequent calling and meeting of Parliaments," which originated with the Lords, and passed the Commons by 200 to 161. See Grey's *Debates*, (1763,) x. 299—309, 375—386.

"The King," says Burnet, "let the Bill lie for some time upon the table; so that men's eyes and expectations were much fixed on the issue of it. But, in conclusion, he refused to pass it; so the session ended in ill-humour. The rejecting a Bill," adds the Bishop, "though an unquestionable right of the Crown, has been so seldom practised, that the two Houses are apt to think it a hardship when there is a Bill denied." *Own Times*, (1734,) ii. 107.

In 1694, a Bill passed both Houses, "touching free and impartial proceedings in Parliament," against the eligibility of placemen. On its discussion, Mr. Harley (afterwards Earl of Oxford) remarked, that "in the first of King James I., the Chancellor, studious of the good of the kingdom, sent down to the House of Commons a list of the members in office, and they were turned out of the House, and new writs were sent out, and new members chosen, that might attend the business they were chosen for." See Grey's *Debates*, x. 338, 339.

King William, however, refused his sanction to this Act of the two Houses. "A Dutchman," says Mr. Burgh, "comes over to Britain, on pretence of delivering us from slavery; and makes it one of his first works to plunge us into the very vice which has enslaved all the nations of the world, that have ever lost their liberties. When the Parliament passed a Bill for incapacitating certain persons, who might be supposed obvious to court influence, from sitting in Parliament, our glorious deliverer refused the royal assent." *Political Disquisitions*, (1774,) i. 403. See Oldmixon's *History*, (1735) p. 89. "So tenacious of corrupt influence," to quote Mrs. Macaulay, was "our deliverer," and, I may add, so little merited, *the glorious and immortal memory*.

"The negative voice" seems, in modern Parliamentary practice, a superfluous prerogative; since the Lords Spiritual, with seldom more than a solitary exception, and the Temporal Peers, whose number increases, *ad libitum*, at the royal pleasure, cannot be supposed ever to decide against the will of the Crown; even if the present exclusive system of technically popular representation should cease to "work well," in the style of the Treasury Bench, from some extraordinary mismanagement of the political machinery.

not obstruct that. They were only formed to consult and advise. I shall allow them that.

Here is no revival of a House of Lords, but *a fortiori* against it. "The last words"* do not exclude the former restrictions; but only relate to the taking of the approbation from this House.

The word "further"† signifies something. I cannot say it is a redundancy. It implies that a power of approbation is also elsewhere.

There is no intention to revive the other House.

There is an Act of the three estates unrepealed, whereby for ever it is limited, that the Chief Magistrate shall not send up any member to the other House but by consent of the other House.‡

It is not an old obsolete thing, that we do not know when. It was very lately, even in Anno 7 *Jac.* both Houses sat in a Parliament together, in the Court of Requests, prepared as for the Parliament of England. I have a clear record for it. They did not stand, but sat. It was upon creating a Prince

The Duke of Richmond, addressing the volunteers of Ireland in 1783, assumes the virtual abandonment of the royal *velo*. "I admit," says the Duke, "that I am not for restoring the negative of the Crown. My reason is, that it appears to me preposterous that the will of one man should for ever obstruct every regulation which all the rest of the nation may think necessary." See "A Letter to Lieutenant-Colonel Sharman," as delivered by the Duke in evidence, Nov. 3, 1794. "Trial of Thomas Hardy," (1795,) iv. 12.

The Duke of Richmond might, possibly, have had in his recollection the language of Algernon Sidney: "I leave any reasonable man to judge, whether it be more safe and fit that those two estates, (Nobles and Commons,) comprehending the whole body of the nation in their persons, or by representation, should have a right to overrule or limit the power of that man, woman, or child, who sits in the throne; or that he or she, young or old, wise or foolish, good or bad, should overrule them and put a stop to their proceedings." *Discourses*, (1704,) p. 217.

* See "Baron Thorp," *supra*, p. 447.

† "Without further approbation," *supra*, p. 301, *note*.

‡ I have not found any Act to this purpose. It appears that a limitation of the royal prerogative, as to the creation of Peers, was proposed in 1648, at the Isle of Wight. See "Mr. Bond," *supra*, p. 21.

of Wales.* The Lords sat on one side; the Commons on the other.

* Prince Henry, in 1610. It will, however, presently appear that the reference does not serve the argument of this speaker. "Both Houses sat together," but not "in a Parliament," nor for any purpose of legislation or jurisdiction. They were in attendance, like the Lord Mayor, &c. merely as witnesses to a ceremonial. Of this Dr. Birch collected from the "*Chronicle of England*," and "*Rymer's Fœdera*," a full and curious account. The following are the most amusing particulars:—

"Wednesday, the 30th of May, being accompanied by divers young noblemen, the Prince rode from St. James's to Richmond, where he reposed himself for that night. The next day, the Lord Mayor of London, with his brethren the Aldermen, and fifty-four of the companies of the City, in their barges, distinguished by their proper enigmas, banners, and streamers, passed up the Thames to Chelsea. Upon the Prince's arrival, after speeches made to him by a representation of Neptune upon a dolphin, and that of a sea-goddess upon a whale, they proceeded towards the Court, the inferior companies first, and the Lord Mayor's barge between the two sea-monsters, next before his Highness's barge. At the bridge at Whitehall, his Highness, taking leave of the Lord Mayor and Aldermen, landed, and was received by the Officers of the King's Household.

"His Majesty, having on Sunday, June 8, made five and twenty Knights of the Bath, proceeded the next day to the creation of the Prince of Wales, the patent for which was passed that very day. The place provided for this solemnity was within the great white chamber in the Palace of Westminster, where both the Houses of Parliament being for that time assembled, together with the Lord Mayor, and Aldermen, and Ambassadors of Spain, Venice, and the States General, the King entered in his royal robes, and with his crown upon his head first took his place of state. After a good space of time, the Prince entered at the lower end of the Great Chamber, having a surcoat of purple velvet, close girt. The order of his entrance was this:—The trumpets sounding, in the first place came the Lord Chamberlain and the Earl Marshall. In the next place followed the twenty-five Knights of the Bath. Next these followed Garter King-at-Arms, bearing the letters patent. The Earls of Nottingham and Northampton supported the Prince, who, presenting himself before the King with very submissive reverence, kneeled upon the uppermost step, leading to the state, while his patent was read by the Earl of Salisbury, till it came to the putting on of his robes, sword, and the rest, by the Lords who carried them: but the crown, rod, ring, and patent, were delivered to him by the king's own hands. This being done, and the Prince, with a low reverence, offering to depart, the King stepped up to him, and took him

It may easily be made out, that upon conferences, a Committee of the Lords came down to conference here, in this House: in 7 *Hen. VIII.* I know not that distance is so much as before.

I grant this to be the House of Commons. We shall never be ashamed of it. Why may we not give them this appellation, "My Lords and Gentlemen of the other House;" there are Lords, by courtesy, in this House; and why may it not be said so here, "My Lords and Gentlemen of this House:" I am no leveller; I profess it, I am for distinction. The word

by the hand, and kissed him. His Highness then took his place on the left hand of his Majesty, sitting there in his royal robes, with the crown upon his head, the rod in one hand, and the patent in the other, while a public Act was read, testifying his having been declared Prince of Great Britain and Wales.

"After this they returned down through Westminster Hall to the Palace Bridge. They proceeded to the stairs, where all took water in several barges; the Heralds and trumpets going in a row-barge next the Knights, and landed at Whitehall Bridge, where the Officers of Arms, the Knights of the Bath, and the Lords being first landed, attended the King; and when his Majesty and the Prince were landed, they went all before him into the Hall, and so into the Great Chamber, whence the Prince came to dinner in the Great Hall. His Majesty dined privately in his Privy Chamber, but his Highness was served in such state, that greater could not have been done to the King himself. The table, being very long, was served with two messes of meat, and he who sat nearest the Prince was at the full distance of half the board from him. The noblemen, who sat at this table, were all in their robes, as well as the Prince. At a long side-board dined the Knights of the Bath, and no other person. During the whole time of dinner, the Hall resounded with all kinds of exquisite music." See "*The Life of Henry Prince of Wales*," (1760,) pp. 190—195.

The subject of this splendid ceremonial survived the accession to his dignity little more than two years. According to the representations of his learned and accurate biographer, he was honourably distinguished among those expectants of regal power, never tried by the possession of it, who appear in history with peculiar advantage. Thus a Prince, who might have lived to become, too literally, a "dread Sovereign," as that "most Christian King," Charles IX., or that modern *Nero*, our eighth Henry, the first "Defender of the Faith,"—has died with "his blushing honours thick upon him,"—and lamented as another *decus humani generis*.

"gentleman" is a title of no small honour.* In Spain, it is of high esteem, and a saying there is "As good a gentleman as the king."

Why may you not enter it so in your books? And your messengers may curtail it in delivering the message. The writ is not the old writ, but grounded upon the Petition and Advice.

Let us not do any thing, I beseech you, that may insnare us.

Mr. Onslow. I wonder to see so much time spent about names. I think there is not so much in it. Let these words be added to the question, "that the giving of this title shall not extend to the giving of any powers more then are given, or shall be given by the Petition and Advice."

Colonel Morley. I am against that addition. Your order will be insignificant, if you own them by another title than you have given them. I fear you can hardly mend it, when you would. How meanly soever the old Lords be spoken of,

* Sir Thomas Smith, in his B. i. Ch. XX. "of Gentlemen," speaking of "old riches or prowess remainyng in one stock," says, "which if the successors doe keepe and follow, they be *verè Nobiles*, and *Εἰρημί*; if they doe not, yet the fame and wealth of their ancestors serve to cover them so long as it can, as a thing once gilted, though it be copper within, till the gilt be worne away."

"This matter," adds this accomplished scholar and statesman, "made a great strife among the Romans, when those which were *novi homines*, were more allowed for their virtues, new and newly showne, than the old smell of ancient race, newly defaced by the evill life of their nephews and discendants could make the other to be. Thus the *Cicerones*, *Ca-tones*, and *Marii*, had much ado with those ancients."

Sir Thomas Smith proceeds to remark, that "Gentlemen bee made good cheape in England. For whosoever studieth the lawes of the realme, who studieth in the Universities, who professeth liberal sciences, and, to bee short, who can live iddel y, and without manuell labour, and will beare the port, charge, and countenance of a gentleman, he shall bee called master.—And, if need be, a King of Herald's shall also give him, for money, armes newly made and invented, the title whereof shall pretend to have been found by the said Herald, in perusing and viewing of old registers, where his ancestors, in times past, had beene recorded to beare the same." See "Commonwealth of England," pp. 54—58.

there are some of them of as much piety as any in this or the other House.

All precedents are out of doors in this case. Let me know whenever there was a precedent for calling a House of Lords of England, Scotland, and Ireland.

You will dissolve the union between the nations, and I question whether you shall ever have the company of any from thence, to sit here again.

My motion is to call them Lords and Gentlemen, and that will clearly be the exclusion of a House of Peers.

Mr. Doddridge. You have two messages to return an answer to, and it is fit you should agree of a way of correspondence; yet it is a matter of such difficulty that I know not what, at present, to advise.

I cannot consent to give the title that is mentioned. My reasons are only grounded upon the Petition and Advice. They are to be nominated by his Highness, and when it was first brought in, it was modestly brought in, the approbation here.* But to place the disposition of one of the estates in one,† it is hard, and the Commons have little right by that. I could rather agree that they should be hereditary. Their sons may be better, than what another man shall choose.

I am not only against the title, but the thing. It is an embryo; a child of five months old. It wants form and figure.

The business of the disposition of money excludes us wholly from ever meddling. The Excise and Customs were never granted longer than for three years.‡ There are other imper-

* See vol. i. pp. 386, 404; *supra*, pp. 298—301.

† The Protector.

‡ This speaker refers to the following article of the Petition and Advice, as providing for a perpetual revenue, unalterable, except by "the consent of the three estates." The further augmentation of the revenue appears to have depended, perhaps exclusively, on the will of the Commons.

"VII. And to the end there may be a constant revenue for support of the Government, and for the safety and defence of these nations by sea and land, we declare our willingness to settle forthwith a

fections in the Petition and Advice, much to be excepted against.

Serjeant Maynard. The question is not now what you will do, but what you have done. I should be much of that gentleman's opinion, were we to begin again. We sit by virtue of the law, and cannot now dispute it. And the question before you is, whether this shall be the Lords' House.

I cannot tell how to name another house than the House of Commons, but the Lords' House. And as to the negative upon you, if that be not clear by what you have done, I understand it not.

If there must be two Houses, it cannot be one House. If you say they are a House of Commons, *qui dividit, destruit*. And if you invest them in that, you give them the greatest privilege that ever was. If so, they are a swarm from this House, and will be a hive, as well as you.

Can you pass a law without them? You have put no restraint upon them, more than upon yourselves.

It is observed to you, that you have let in the Irish and Scottish nations into your Parliament.* As you have let in them, those have not altered the privileges of the other House. We are not now to deliberate. You have passed as to number, and they are clearly another House.

Under favour, there is a negative clearly upon you.

yearly revenue of 1,300,000*l.*, whereof 1,000,000*l.* for the navy and army, and 300,000*l.* for the support of the Government, and no part thereof to be raised by a land-tax; and this not to be altered without the consent of the three estates in Parliament; and to grant such other temporary supplies, according as the Commons assembled in Parliament shall, from time to time, adjudge the necessities of these nations to require; and do pray your Highness that it be declared and enacted, that no charge be laid, nor no person be compelled to contribute to any gift, loan, benevolence, tax, tollage, aid, or other like charge, without common consent, by Act of Parliament; which is a freedom the people of these nations ought by the laws to inherit." *Parl. Hist.* xxiii. 135, 136.

For the discussions on the Excise, see vol. i. pp. 292, 309, 324; on the Revenue, *supra*, pp. 11, 23—31, 41, 121.

* See "Colonel Morley," *supra*, p. 467.

There may be a difference about the circumstances of beginning or ending laws. So that giving them the title of Lords is but using letters of no signification. You have not given them one syllable of what they shall do, but only what they shall not do; and, in other things, according to the laws. What other laws than of the Lords' House?

1. In cases adjourned to the Parliament, what means it but a Lords' House?

2. You admit them a House with privileges: what other House?

3. No final determinations, but by the House itself.† They did business by Committees, under adjournment, and it was thought irregular. 34 *Edw. III.* clears it, that it shall be regular.

4. The word "usage,"‡ can there be any usage of what never had a being?

5. "The other House of Parliament," not another House of Parliament.

6. To do and perform all the powers, &c. and have, &c. exercise all the powers, &c.§ These must refer to the old House, and not to the former words, in the Petition and Advice.

Non loquimur, in republica, catenis. If this break off, we shall go into a wilderness again. It is not great words to say

* See vol. I. pp. 387, 405.

† See *ibid.* p. 388.

‡ "Any law or usage to the contrary, notwithstanding." *Ibid.*

§ The words in "the Humble Additional and Explanatory Petition and Advice," to which this speaker refers, are in the following concluding paragraph:—

"That the persons so summoned and assembled together, shall be, and are hereby declared to be, the Other House of Parliament; and shall and may, without further approbation of this House, from such time of their meeting, proceed to do and perform all such matters and things, as the Other House of Parliament ought to do and perform; and shall and may have and exercise, all such privileges, powers, and authorities, as the Other House of Parliament ought, by the aforesaid humble Petition and Advice, to have and exercise; the said humble Petition and Advice, or any thing therein contained, to the contrary thereof notwithstanding." *Parl. Hist.* xxi. 160.

what we will do. We see, oftentimes, coldness afterward. Think what may follow, if we should break. I know not what may be the consequence.

If you would look upon yourselves as freeborn, I wish we had been as free as we were born. We had not power to make laws before. There was still a check upon us, and very needful, too.*

* The English republicans of the seventeenth century, do not appear to have contemplated the advantage of two deliberative assemblies, with a single executive ; all emanating from the people, by elections at no long intervals ; and to the latter accorded a power of subjecting legislative proceedings to further deliberation. Such is the constitution of the United States, now sanctioned by the test of experience, and first adopted in 1780, by the State of Massachusetts ; which determined on the following articles :—

“ I. The department of legislation shall be formed by two branches, a Senate, and a House of Representatives ; each of which shall have a negative on the other.

“ II. No Bill or Resolve, of the Senate or House of Representatives, shall become a law, and have force as such, until it shall have been laid before the Governor for his revisal ; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such Bill or Resolve, he shall return the same, together with his objections thereto, in writing, to the Senate or House of Representatives, in which soever the same shall have originated ; who shall enter the objections sent down by the Governor at large on their records, and proceed to reconsider the said Bill or Resolve. But if, after such re-consideration, two-thirds of the said Senate or House of Representatives shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, it shall have the force of a law.” See “ The Constitution of the several independent States of America, published by order of Congress,” (1783,) p. 24.

“ The Governor of Massachusetts,” says the Abbé de Mably, “ is restrained within the mere prerogative of making his remonstrances to the legislative power ; and this is a recourse which, far from impeding the action of such a power, renders it more salutary, by preventing all temerity, all surprise, and all infatuation. The censure which the two Houses of the General Assembly may exercise against each other, by mutually rejecting their respective bills, is a point extremely favourable to the stability of the Government.” See “ Remarks concerning the

I profess to you, I am not ambitious. I would be lower. I would give my negative, if it were put, that we should have a free legislature within these walls. You know what has been done here in a morning. You know my meaning; a law made in a morning. This Parliament did pass more in one month than the best student in England can read in a year, and well if he can understand it then. There is nothing can be well done by man. I should suspect myself. A check is necessary upon us.

If it were in our power to take off the Excise, I should do it; but we are bound now, and it is not without need.

I shall not tell you of a King* now. It is not material.

Government and the Laws of the United States, addressed to Mr. Adams." (1784), pp. 82, 83.

It appears (vol. i. p. 21, *note* *) that the Protector could delay the passing of a Bill only twenty days. Yet see on "The consent of the three Estates," and "common consent," *supra*, p. 458, *note* †.

* "May 1, 1658," a few weeks after this speaker had thus cast "one longing lingering" glance, at the favourite but impracticable project of royalty in the House of Cromwell, "he was, by patent, made," according to *Whitlock*, "his Highness's Serjeant-at-Law." *Memorials*, (1732,) p. 673.

Serjeant Maynard, remembered for a witty reply in his old age to King William, which Bishop Burnet has recorded, rather than for any valuable public services, was now, no doubt, willing enough to become King's Serjeant, and sufficiently prepared to devote his intellect and his eloquence to advocate, *professionally*, any design of any King. *Ibi fas, ubi maxima merces*, or, according to the version of Lord Melcombe, which he so amply illustrated in his *Diary*, "all for Quarter-day." See *supra*, p. 184, *note* §.

The Protector's Lord Chief-justice, Glynn, divided with his Serjeant the deep disgrace of appearing, in 1661, among the crown-lawyers, to sustain the accusation against Sir Henry Vane, for having acted in the government of the Commonwealth; an alleged crime, which those versatile lawyers themselves had unreservedly committed: as the royalist *Butler* sings—

"Did not the learned Glynn and Maynard

To make good subjects traitors, strain hard."

They would, however, be desirous, on a change of times, and a consequent change of interests, to atone for this imputed attachment to the popular cause; an imputation which, probably, never did, nor ever will, advance a barrister to a gown of "silken sheen," or to the Bench; under any royal or aristocratic administration of government.

It was ill put; a strange doctrine in Parliament, to say that we were kept out by the House. It was another power* that did it. I even sent twice that morning,† to demand restitution of your members.

There may be a necessity of a restraint, sometimes. A corrupt party may be in a House. I see other business, so I shall not trouble you now.

My motion is, that you would call them by the title of Lords.

Mr. Speaker. The Black Rod is at the door.

Mr. Scot stood up to speak to the question, but was taken down by

Captain Whitgrave, who did affirm he had spoken to it already, and promised he would speak to this debate no more.

Sir Arthur Haselrigge. He ought not to have taken the gentleman down. You have made some alteration in your question, and he may speak to it.

Some said the Black Rod stays, as *Sir Arthur* was speaking. Said he, "What care I for the Black Rod? The gentleman ought to be heard."

*Serjeant Maynard.** Without question, the gentleman may speak to-day, though he has spoken yesterday to the same question.

But it was moved, first, to call in the Black Rod, and then hear the gentleman.

The Usher was called in accordingly; who, coming to the middle of the room, said, "Mr. Speaker, his Highness is in the Lords' House, and desires to speak with you."‡

Being withdrawn, the debate was adjourned, and the

* The Protector's Council.

† September 17th, 1656. See vol. i. p. 262, note †.

‡ *Whitlock*, having related how "some were against the House of Lords, perhaps because they were not thought fit to be members of it, and others upon other fancies, and upon a spirit of contradiction," thus describes the abrupt *finale* of Cromwell's Parliamentary government:—

"The Protector looked upon himself as aimed at, though with a side wind; and he was the more incensed, because, at this time, the Fifth-Monarchy men began again their enterprises to overthrow him and his Government by force; whereof there were clear discoveries. He therefore took a resolution suddenly, to dissolve this Parliament.

House, till their return from attending my Lord Protector : but they never met again.

They presently rose, *viz.* a little past twelve, and met his Highness in the Lords' House ; where, after some pause, his Highness made a speech about half an hour long, declaring

" I dissuaded him from it, and told him the danger of frequent dissolving of Parliaments, the straits it would bring him into for money which he could not raise without the highest discontent, unless it were given by them. But some fierce men and flatterers, to comply with him, advised the dissolving of them." *Memorials*, (1732), pp. 672, 673.

" Dr. Bates describes the contempt with which the Commons regarded " the other House," and adds, " *Dynastæ tamen è contra (uti docuerat Cromwellius) blandiri, assentatiunculis conciliare velle, illecebris propitiare, nihil intentatum relinquere quo mansuefacerent.*" *Elenchus*, p. 320. (The Lords, on the contrary, according to Cromwell's directions, endeavoured, by the most flattering blandishments, to abate their opposition, and to propitiate their good will, nor left unessayed any method of conciliation.)

This writer, from his office an inmate of Whitehall, thus attributes the hasty dissolution to the inflexibility of the Commons, and the new, and reported formidable attempts of Charles Stuart:—

" Sed perstant usque morosi, ad omnia difficiles et refractarii. Quibus rebus à Cromwellio perspectis, et præsertim quia novas res moliri Regios subintelligeret, Regique in procinctu esse nescio quot millia, quibus Angliam invadere niteretur, imo et reipsâ hisce terris interesse Ormondia Marchionem, excitandis Provinciis clam invigilantem ; has ob causas Parliamentum istud protinus abrogavit." *Ibid.* (They continue utterly unaccommodating and refractory. Cromwell perceiving this, and also being advised of new attempts by the Royalists, and that the King was on a neighbouring coast, prepared for an invasion, with I know not how many thousand men, and that the Marquis of Ormond was in England, endeavouring to promote an insurrection ; for these causes he immediately dissolved that Parliament.)

Ludlow, on the admission of the members " formerly excluded by Cromwell and his Council," (see *supra*, p. 316, note *,) adds, " They began to call in question all that had been done in the former sessions, grounding their arguments on the force that was upon that assembly. Eight or ten days were spent in these debates ; and in the mean time, some petitions were carrying on, and subscribed by many thousands, to be presented to those who sat in the place where the Parliament of England ought to be. Cromwell was not a little startled at these proceedings, suspecting that part of the army, especially those that were quartered about St. James's, were engaged therein. Therefore, to prevent that which he feared, and which his conscience told him he had deserved, he took the inspection of the watch at Whitehall for several nights suc-

his grounds and reasons to put an end to this Parliament; and in the close of all said, "I do dissolve this Parliament. And God judge between you and me." (*Vide Book of Speeches.*)

The mace was presently clapped under a cloak: the Speaker withdrew, and *exit Parliamentum*.*

Out of the Diurnal thus:

We find the House of Commons, this morning, resumed the debate which was yesterday adjourned to this time, touching the appellation of the other House, *viz.* the House of Lords.

Betwixt the hours of ten and eleven, his Highness came to the House of Lords, and commanded the Usher of the Black Rod to go and acquaint the House of Commons, that his

cessively in his own person. And the alarm from abroad increasing daily, he resolved upon the dissolution of this assembly.

"Whilst he was deliberating about the best means of effecting this design, fresh information was brought him concerning the diligence of his adversaries in all parts; which quickened him to that degree, that he would not stay for one of his own coaches, but taking the first that was at hand, with such guards as he could presently get together, he hurried to the other House. Whither being come, he imparted his intentions to dissolve that assembly to Lieutenant-General Fleetwood; who earnestly endeavoured to dissuade him from it. He clapped his hand upon his breast, and swore by the living God he would do it. Then he sent for the Judges, and they being come, dispatched another message to the assembly to attend him presently." *Memoirs*, (1698,) ii. pp. 597, 598.

* "Their Journals show how many projects were then on foot for the public service; and that the questioning the Protector's title, and affronting his 'other House,' was not the sole employment of the Commons." *Parl. Hist.* xxi. 203. The following were among the parliamentary projects for which "the Bills then depending," were thus "rendered abortive."

"Establishing county registers; providing for orphans, and preservation of their estates and descents; compelling prisoners who have estates to pay their debts, and relief of such as are not able; suppressing customary oaths; better distribution of the revenues of hospitals; empowering and requiring parishes to raise a stock for setting the poor at work; preventing the inhabitants of the sea-coasts from plundering such as have the misfortune to be wrecked there; repairing of the highways, and improving the public roads." See *ibid.*

Highness was come to the Lords' House, and there expected them.

The Usher of the Black Rod being called into the House of Commons, signified the same accordingly. Whereupon the Speaker and the whole House coming into the Lords' House, and standing, without the bar, his Highness standing under the cloth of estate, made a speech to them; wherein he declared several urgent and weighty reasons, making it necessary for him, in order to the public peace and safety, to proceed to an immediate dissolution of this Parliament. And accordingly his Highness dissolved the Parliament.

*The Speech of his Highness the Lord Protector.**

My Lords and Gentlemen of the House of Commons,
I had very comfortable expectations that God would make the meeting of this Parliament a blessing; and, the Lord be my witness, I desired the carrying on the affairs of the nation to these ends. The blessing which I mean, and which we ever climbed at, was mercy, truth, righteousness, and peace, which I desire may be improved.

That which brought me into the capacity I now stand in, was the Petition and Advice given me by you,† who, in reference to the ancient Constitution, did draw me to accept of the place of Protector.‡ There is not a man living can say I

* *Parl. Hist.* xxi. 199—203.

† Yet see vol. i. p. 378, for the first introduction of that new project of government, by Alderman Pack, a generally reputed Parliamentary agent of the Protector.

‡ "The Petition and Advice" found Cromwell already in full possession "of the place of Protector," which, after having assumed the powers of the executive government by the aid of military violence, he had condescended "to accept," in December 1653, from a Council of his own nomination; such *bonâ fide* electors as the Chapter of a Cathedral, who, after a prayer for divine guidance, proceed to choose a Bishop, with all the forms of suffrage, though at their utmost peril, in strict accordance with the King's mandate; which, however, appears in the courtly guise of a *conge d'elire*, with a royal recommendation of the favoured churchman. See Granville Sharp on "Congregational Courts." (1784,) p. 318.

sought it,* no not a man, nor woman, treading upon English ground; but, contemplating the sad condition of these nations, relieved from an intestine war, into a six or seven years peace, I did think the nation happy therein. But, to be petitioned thereunto, and advised by you to undertake such a Government, a burden too heavy for any creature, and this to be done by the House that then had the legislative capacity, I did look that the same men† that made the frame, should make it good unto me. I can say, in the presence of God, in comparison of whom we are but like poor creeping ants upon the earth, I would have been glad to have lived under my wood side, to have kept a flock of sheep,‡ rather than undertook such a Government as this is, but undertaking it by

* See *supra*, p. 371, *note*.*

† Not "the same men." See *supra*, pp. 316, 348, *notes*.

‡ This professed predilection for a pastoral life appears to have been one of the Protector's favourite common-places. Bishop Burnet, alluding to Cromwell's intercourse with "the Commonwealth party," in which he appears to have applied the admired maxim *divide et impera*, thus describes his attempt to reconcile "the Fifth-monarchy men and the enthusiasts" to his usurpation.

"To these he said, and as some have told me, with many tears, [See vol. iii. p. 211, *note*.] that he would rather have taken a shepherd's staff than the Protectorship, since nothing was more contrary to his genius than a show of greatness. And he assured them that he would surrender the heavy load lying upon him with a joy equal to the sorrow with which he was afflicted, while under that show of dignity." *Own Time*, (1724) i. 67, 68.

*Quis, talia fando,
Temperet à laohrymis.*

The Spectator (No. 610) assuming that superhuman intelligences may "look into the ways of men," happily concludes that "they do not look for great men at the head of armies, or among the pomps of a court, but often find them out in shades and solitudes, in the private walks and by-paths of life." The Protector, that prime actor in the political drama of his day, however he might express himself in the public theatre, for stage effect, was scarcely so ill endowed with self-knowledge as to believe that the condition of one of the angelic "great men," dwelling "under his wood side," could have filled up the measure of his ambition, (see *supra*, p. 346, *note*.)

Waller has indulged the imagination, that those earlier chieftains, "whose endowments threw a brightness on their crimes," and whose

the Advice and Petition of you, I did look that you, that had offered it unto me, should make it good.

I did tell you at a conference* concerning it, that I would not undertake it, unless there might be some other persons that might interpose between me and the House of Commons, who then had the power, to prevent tumultuary and popular spirits;† and it was granted I should name another House.

military renown, after having almost engrossed the admiration of antiquity, has too often excited modern heroism,

————— “to wade through slaughter to a throne,
And shut the gates of mercy on mankind,”
might have been destined to pass their lives among the dwellers “under the wood-side;” where

“Great Julius, on the mountains bred,
A flock, perhaps, or herd had led:
He that the world subdued, had been
But the best wrestler on the green.”

Still more appropriate are those beautiful stanzas of the *Elegy*, written amidst the scenery where

“The rude forefathers of the hamlet sleep;”
from among whom the poet conjectures that there might have arisen, under more favourable auspices, a great triumvirate.

“Perhaps in this neglected spot is laid
Some heart once pregnant with celestial fire,
Hands that the rod of empire might have sway’d,
Or wak’d to ecstasy the living lyre.

“Some Village-Hampden, that with dauntless breast,
The little tyrant of his fields withstood,
Some mute inglorious Milton here may rest,
Some Cromwell guiltless of his country’s blood.”

“This honourable testimony to the exalted character of Hampden,” says Gilbert Wakefield, “and the noble detestation of arbitrary power with which it is accompanied, might possibly be one cause of Dr. Johnson’s animosity against our poet. Upon this topic, the critic’s feelings, we know, were irritability itself.” See “The Poems of Mr. Gray, with notes,” (1796), p. 174.

The blood-guiltiness which the poet imputes to Cromwell, will be appropriated, by various readers, to very different periods of his public life. See *supra*, p. 390, note †.

* Probably that “between the Protector and the hundred officers.” See vol. i. p. 382.

† See on the “need of a check, or balancing power.” *Ibid.* p. 384.

I named it of men that shall meet you wheresoever you go, and shake hands with you,* and tell you it is not titles, nor lords, nor party, that they value, but a Christian and an English interest; men of your own rank and quality, who will not only be a balance unto you, but to themselves, while you love England and religion.

Having proceeded upon these terms, and finding such a spirit as is too much predominant, every thing being too high or too low, where virtue, honesty, piety and justice, are omitted, I thought I had been doing that which was my duty, and thought it would have satisfied you; but if every thing must be too high or too low, you are not to be satisfied.

Again, I would not have accepted of the Government, unless I knew there would be a just accord between the governor and the governed; unless they would take an oath to make good what the Parliament's Petition and Advice advised me unto; upon that I took an oath,§ and they took another oath,|| upon their part answerable to mine, and did not every one know upon what condition they swore? God knows, I took it upon the conditions expressed in the Government. And I did think we had been upon a foundation, and upon a bottom; and, thereupon, I thought myself bound to take it, and to be advised by the two Houses of Parliament; and we, standing unsettled till we were arrived at that, the consequences would necessarily have been confusion, if that had not been settled. Yet there are not constituted hereditary lords, nor hereditary kings; the power consisting in the two Houses and myself. I do not say that was the meaning of your oath, to you; that were to go against my own principles, to enter upon another man's conscience. God will judge between me and you; if

* Thus *Milton* on those "who are the greatest," in "a free Commonwealth." They "walk the street as other men, may be spoken to, freely, familiarly, and in a friendly manner without adoration." See "The ready and easy way to establish a Free Commonwealth," (1660,) annexed to "The History of Britain," edited by Baron Masseres (1818,) p. 362. See a contrast; vol. iii. p. 167, *note*.

§ See *supra*, pp. 287, *note**, 305 *note*.

|| See *Ibid*, p. 297, *note*.

there had been in you any intention of settlement, you would have settled upon this basis, and have offered your judgment and opinion.

God is my witness, I speak it, it is evident to all the world and people living, that a new business hath been seeking in the army against this actual settlement, made by your consent. I do not speak to these, gentlemen, or Lords,* whatsoever you will call them. I speak not this to them, but to you. You advised me to come into this place, to be in a capacity by your Advice; yet, instead of owning a thing taken for granted, some must have I know not what; and you have not only disjointed yourselves, but the whole nation, which is in likelihood of running into more confusion in these fifteen or sixteen days that you have sat, than it hath been from the rising of the last session to this day, through the intention of devising a Commonwealth, again; that some of the people might be the men that might rule all, and they are endeavouring to engage the army to carry that thing. And, hath that man been true to this nation, whosoever he be, especially that hath taken an oath, thus to prevaricate? These designs have been made among the army, to break and divide us. I speak this in the presence of some of the army, that these things have not been according to God, nor according to truth, pretend what you will. These things tend to nothing else, but the playing the King of Scot's game, if I may so call him,† and I think myself bound, before God, to do what I can to prevent it.

That which I told you in the Banquetting House,‡ was true, that there were preparations of force to invade us. God is my witness, it hath been confirmed to me since, within a day that the King of Scots hath an army at the water's side, ready to be shipped for England. I have it from those who have been eye-witnesses of it. And, while it is doing, there are endeavours from some, who are not far from this place, to stir up the people of this town into a tumulting. What if I

* "Pointing to his right hand." *Parl. Hist.* xxi. 201.

† See vol. iii. p. 372, note *.

‡ See *supra*, pp. 362, 363.

said, into a rebellion? And I hope I shall make it appear to be no better, if God assist me.

It hath been not only your endeavour to pervert the army, while you have been sitting, and to draw them to state the question about a Commonwealth; but some of you have been listing of persons, by commission of Charles Stuart, to join with any insurrection that may be made;* and what is like to come upon this, the enemy being ready to invade us, but even present blood and confusion. And, if this be so, I do assign to this cause your not assenting to what you did invite me to by the Petition and Advice, as that which might be the settlement of the nation; and if this be the end of your sitting, and this be your carriage, I think it high time that an end be put unto your sitting, and I do dissolve this Parliament: and let God judge between me and you.†

THIS prompt exertion of his prerogative, the dictate of policy or resentment, the Protector survived only seven months. These were passed amidst continued alarms and frequent occasions for anxious and unremitting vigilance; a condition of greatness, sufficient, could anything repress the sanguine spirit of ambition, to deter an aspirant from assuming a public station, uninvited by the public voice.

Some who were in the counsels of Whitehall, appear to have expected the speedy call of another Parliament.‡ Bishop Burnet had conversed intimately with Lord Broghill, and other favourites of Charles II., who were now among the confidential courtiers of the Protector. He says, probably on their authority, when referring to the abortive regal project, that "if Cromwell had lived out the next winter, as the debates were to have been brought on again, so it was

* See vol. iii. p. 550, *ad fin.*; *Lansdown MSS.* 755, No. 38; *Parl. Hist.* (1760,) xxi. 205.

† "At which many of the Commons cried, 'Amen.'" See "A Compleat History of Europe," (1706,) p. 445; Whitlock's *Memorials*, (1732,) p. 673; *Parl. Hist.* xxi. 203.

‡ Moreland to Pell. "Whitehall, April 16, 58. Many speak as though we should have yet another Parliament." *Lansdown MSS.* 755, No. 374.

generally thought that he would have accepted of the offer."*

His first efforts, however, were directed by urgent necessity, to an object of more vital importance, even to the maintenance of his usurpation, under any titular distinction. This, from present appearances, should he escape the threatened and justly dreaded, if not justly merited stroke of some English Brutus,† he might soon be called upon, either to vindicate by his usual good fortune in the field, or to expiate, as a criminal, on the gibbet or the scaffold.

"Intelligence from abroad" that "the Cavalier party were again at work upon a new design,"‡ engaged the Protector, first, to subject the supposed adherents of Charles Stuart to new restraints,§ and then, as had been usual, with successive governing powers, especially in that age, to conciliate the good will of the metropolis. He invited the Corporation to Whitehall. Thither also, he convened his principal military officers, and received from both the most encouraging assurances of attachment and support. The Jews, also, those able and general intelligencers, whose intercourse with the Continent,|| Cromwell had before turned to a profitable account, he now conciliated by a seasonable benefaction to their principal agent resident in England.

State prisoners rapidly multiplied, and the mode of their trial became a serious object of immediate atten-

* *Own Time*, vol. i. p. 70.

† See *supra*, p. 312, note; *infra*, p. 486.

‡ See *Lansdown MSS.* 755, No. 321. "Clarendon State Papers," vol. iii. p. 388. *Mercurius Politicus*, No. 407. Dr. Bates's *Elenchus*, p. 320.

§ See *Mercurius Politicus*, No. 405. *Ibid.* Nos. 407; 409.

|| Where opinions on English affairs appear to have been at this time very contradictory. Monsieur Daillé thus writes to Mr. Pell, at Zurich:—

"De Paris, le 22 Mars, 1658. L'on parle ici fort diversement de l'Angleterre; les uns la disant en un peril extreme, et les autres, en grande securité; chacun, comme je croy, plutôt selon leur passion, que selon la verité."

"D'Angleterre chacun forge ici des nouvelles à sa mode." *Lansdown MSS.* 755, No. 360.

tion. The Protector consulted Lord Whitlock, who concurred with Thurloe in recommending the trial by jury. He, however, rejected their advice, and a High Court of Justice was speedily appointed.*

Before this Court first appeared a brother of the Earl of Peterborough, Mr. Mordaunt, whose name frequently occurs in these pages, as an "intelligencer" for Charles Stuart. His treason against the Protectoral Government, especially in correspondence with Sir Edward Hyde, is now fully proved, by "the Clarendon State Papers."

He, however, in this hour of extreme peril, escaped, chiefly from the want of a material witness, whose absence was contrived and effected by the solicitude and perseverance of the prisoner's affectionate wife.† "He was very few days at liberty," says Lord Clarendon, "before he embarked himself as frankly in the King's service as before, and with better success."‡

Sir Henry Slingsby, an aged gentleman of Yorkshire, was convicted before this court, for plotting and contriving "to betray and yield up the garrison of Hull unto Charles Stuart," and suffered death. His treason against the Government in possession, sufficiently appeared on his trial,§ and is confirmed by a commendatory remark of the noble historian, that "when the war was ended, he remained still in his own house, prepared and disposed to run the fortune of the crown in any other attempt."|| On this occasion, that forensic

* See *Memorials*, (1732,) pp. 673, 674.

† "Such is Lord Clarendon's account, (*History*, iii. 621.) *Whitlock* says, "Mr. Mordaunt, one of the great actors in the new conspiracy, had favour from the Commissioners by my means." *Memorials*, (1732,) p. 673. On collating the two editions of the *Memorials*, I find that the words, "by my means," were omitted in the first edition, (1692,) which is understood to have been edited, and the preface written by the Earl of Anglesey.

‡ *History*, (1712,) iii. 620—623.

§ See *State Trials*, (1775,) vol. ii. pp. 278—282, 298—300.

|| *History*, iii. 623. "He was uncle to the Lord Falconbridge, who engaged his wife and all his new allies to intercede for him, without effect." *Ibid.* p. 624.

Swiss, "Mr. Serjeant Maynard,* summed up the charge, plea and evidence, and eloquently set forth the fulness and clearness of the evidence" against an adherent of Charles Stuart, "with the heinousness of the offence, and demanded the judgment of the court."†

Dr. Hewet, who suffered death immediately after Sir Henry Slingsby, "was born as a gentleman," says Lord Clarendon, "and bred a scholar. He lived in Oxford, and in the army, till the end of the war, and continued afterwards to preach with great applause in a little church in London; where, by the affection of the parish, he was admitted, since he was enough known to be notoriously under the brand of malignity."

He persevered in demurring to the jurisdiction of the Court, (according to the motto he appears to have assumed: *Intrepidus mea fata sequor*,) and was pronounced guilty; quitting life with a Christian temper worthy a more honourable cause and a milder fate. Lord Clarendon admits of "these three" that "every one of them knew enough against himself," and as to Mr. Mordaunt, and Dr. Hewet, that they "could not doubt but there would be evidence enough against them."

To these first sufferers under the sentence of the court, was "granted the favour to be beheaded. There were three others," says the noble historian, "Colonel Ashton, Stacey, and Betteley, condemned by the same court, who were treated with more severity, and were hanged, drawn, and quartered, with the utmost rigour, in several great streets in the city, to make the deeper impression upon the people, the two last being citizens. But all men appeared so nauseated with blood, and so tired with those abominable spectacles, that Cromwell thought it best to pardon the rest who were condemned; or rather to reprieve them."‡

Yet Lord Clarendon had presided over the Court of Chancery, even in the midst of "those abominable spectacles,"§ unsparingly exhibited, in 1660, till even Royalists were "nau-

* See vol. ii. p. 184, note §.

† *State Trials*, ii. 280.

‡ *History*, vol. iii. p. 624.

§ See vol. iii. pp. 79, 110, 546; iv. 121, 265, 380, 432.

seated with blood ;" and as principal law officer of the crown, and " keeper of the King's conscience," had, at least, virtually, afforded them his official sanction.

The noble historian could comment with his usual amplitude, on an instance of barbarity when Royalists were the victims. But it ill suited the purpose of his History, (whose solemn pretensions to religious veracity begin now to be justly appreciated,)* to add, that this was the first and the only instance in which the Protector had assumed the prerogative of executing thus royally the barbarous sentence† pronounced by the treason law of England.

* For earlier detections, see the Earl of Chatham, *supra*, p. 443, *note*, and Dr. Towers, vol. iii. p. 308, *ad fin.* On " the good Lord Clarendon," and his part in the legal murder of Sir Henry Vane, see *Westminster Review*, (1837,) viii. 348.

† " The offender is to be drawn, that is, dragged to the gallows. He is to be hanged by the neck, and then cut down alive. His entrails are to be taken out and burned, while he is yet alive ; his head to be cut off ; his body to be divided into four parts, and his head and his quarters to be at the King's disposal." *Blackstone*. See vol. iii. p. 111, iv. 121, 380, 432, *notes*. See also the sentence on Major-general Harrison, *Trials of Regicides*, (1739,) pp. 51, 52 ; *State Trials*, (1776,) ii. 324.

The late Mr. Noble says, that " of the many who conspired against Cromwell, very few were put to death, and they by the clearest evidence, and with all the decorum of the most regular government." *English Regicides*, (1798,) i. 161.

The conclusion of this sentence undesignedly wrongs the memory of the Protector, " the decorum" of whose general administration, on these sad occasions, was happily distinguished, as will presently appear, from the too frequent practices of " the most regular governments," before and since the Protectorate.

The first and second kings of the House of Hanover, as the best friends of that House will regret, appear, in the treatment of lifeless enemies, (mere political criminals, some of whom had generously, though rashly, sacrificed their lives and fortunes on a paltry question of hereditary right,) to have followed the unworthy example of their cousin, Charles II. Thus an anonymous writer, in 1716, asks, and the question might have been repeated in 1746, " Will it be a delightful prospect to the royal family to have the heads and limbs of their subjects thrown in their eyes, as they pass through any town in their de-

To the Republic, and, with this single exception, to the Protectorate, must be awarded, even by their enemies, the exclusive praise of having anticipated the judicial decorum of the present age, which, though unfeelingly profuse in capital

minions?" See "An Argument to prove the Affections of the People of England, to be the best security of the Government."

But the last of the Tudors, besides the embowellings and mutilations, especially of Roman Catholics, perpetrated by her royal authority, appears to have employed the executioner, as a sort of *arbiter elegantiarum*, to ornament the walls of her palace, and thus to provide amusements for foreign visitors.

In 1601, Henry IV. sent the Marshal Biron, to compliment Elizabeth, who entertained him in the Tower of London. There the Queen gratified the Ambassador, (who then could little expect his fate, to die on a scaffold,) by the following extraordinary exhibition: an "abominable spectacle," under a Protectorate, but "the decorum of the most regular government," under a monarchy:—

"La Roynie ayant fait reveoir au Duc de Biron plusieurs preuves de sa grandeur, et de son affection, luy monstra un estrange exemple de sa justice. C'estoient les testes de plusieurs grands Seigneurs, qui avoient pensé à troubler son estat, et entre autre celle du Comte d'Essex, pour la punition duquel sa justice avoit vaincu son courage et forcé toutes ses affections." See "Discourse grave et eloquent, de la Roynie d'Angleterre, au Mareschal de Biron, l'an 1601," annexed to "Histoire de la Vie et Mort du Comte d'Essex," 1607.

"Cette Reine s'efforça, par toutes sortes de moyens, de faire connoistre aux François, sa grandeur et sa puissance. Un jour, tenant Biron par la main, elle luy monstra un grand nombre de testes plantées sur la Tour de Londres, luy dît que l'on punissoit ainsi les rebelles en Angleterre, et luy raconta les sujets qu'elle avoit eus de faire mourir le Comte d'Essex, (auquel elle fait voir la teste,) qu'elle avoit autrefois si tendrement cheri." See "Histoire du Roy Henri le Grand, composée par Messire Hardouin De Perefixe, Archevesque de Paris," (1679,) p. 341; "History of Henry the Great," (1692,) p. 262.

The modern history of Africa, exhibits similar royal amusements; as if her kings had consulted our annals, and would emulate these "glories of the maiden reign."

Atkins, describing a chief, in 1721, who had "paved the entrance of his house with Dutchmen's skulls," adds, "the under jaw-bones of these Dutchmen, he showed me, strung, and hanging on a tree, in the court-yard." *Voyage to Guinea*, p. 80.

Snelgrave, relating his visit to the king of Dahomy, in 1727, says: "in our way to the king's gate, we saw two large stages, on which were

punishment, that clumsy expedient of unenlightened or indolent legislation, no longer disgusts by the barbarity of its execution.

Those Governments, whose reputation, neglect, ridicule, and fiction, under the specious name of history, have combined to disparage, were satisfied to inflict on treason, most palpable and flagrant, the *ultimum supplicium*, adding no ingredient of cruelty or dishonour to aggravate "the bitterness of death." The body of King Charles suffered not the least indignity; but five hundred pounds were expended on the funeral.* Those noble adherents to his cause, who perished in a vain attempt to retrieve his fallen fortunes, the Lords Holland, Capel,† and Hamilton, had whatever rites of burial, duty or affection might desire. Thus, also, concluded the fatal stories of Love,‡ Penruddock,§ and the rest, who had sacrificed themselves in the unworthy service of Charles Stuart.

Treason, however alarming in the rumours of its progress, at length had effected nothing but its own punishment, and the Protector acquired additional renown in the estimation of Europe, by the capture and possession of Dunkirk;|| when the last and irresistible enemy was rapidly advancing. On the third of September, a day consecrated by the trophies of Dunbar and Worcester, to Cromwell's military fame, his thoughts perished, his mighty purposes were broken off, and he quickly followed a favourite daughter, to "the house appointed for all the living," where

heaped a great number of dead men's heads, that afforded no pleasing sight or smell." *Account of Guinea*, p. 31. His Majesty of Dahomy, was, probably, of the same opinion with Charles IX. of France. That Prince, according to *Voltaire*, viewing Coligni, "hanged in chains at the gallows of Montfaucon," when "one of his courtiers complained of the stench of the corpse," replied, "A dead enemy smells sweet." Thus symbolized the royal houses of Europe and Africa, in their barbarous retaliations on vanquished enemies.

* See Dr. Grey's "Attempt towards the Character of the Royal Martyr," (1728,) pp. 61, 62. *Parl. Hist.* (1763,) xix. 1, 2.

† See vol. iii. p. 422, note.

‡ See vol. ii. p. 88, note.

§ See vol. iii. p. 531, note.

|| See *Ibid.* pp. 488, note.

" Ev'n the great find rest,
And blended lie the oppressor and the oppress'd."*

* The circumstances attending this event, which so rapidly changed the condition of England, are amply detailed, probably with some mixture of fable, in the annals of the time. *Whitlock* soberly says:—

" Aug. 7. News of the death of Lady Elizabeth Cleypole, yesterday, at Hampton Court. Her death did much grieve her father.

" August 26. The Protector, being sick at Hampton Court, as some thought of an ague, I went there to visit him, and was kindly entertained by him at dinner. He discoursed privately with me, about his great businesses.

" Sept. 3. This day, about two o'clock in the afternoon, the Protector died at Whitehall. The same day, that he had before obtained the victories at Dunbar and at Worcester, he now went to rest in the grave. After his many great actions and troubles, he now died quietly in his bed. Some were of opinion that he was poisoned." *Memorials*, (1732,) p. 674. See *infra*, p. 516.

Dr. Bates, the Protector's chief physician, to whose *Elenchus* I have been so frequently indebted, describes, (pp. 328—330,) the progress of his disease, and the appearances of the body after death. But no hint of poison could be expected, if the author of *Elenchus* has been justly charged with having been the poisoner.

Wood says, in his *Life of Dr. Bates*, that, " upon the Restoration, he got in with the royal party, by his friends' report, that he, by a dose given to Oliver, hastened him to his end; was made chief physician to Charles II. and a member of the Royal Society." *Athen. Oxon.* (1692,) ii. 303.

It is remarkable that *Crookshank*, on the authority of a much earlier writer, should bring a similar charge against this physician, in the case of Bishop Burnet's uncle, Lord Waristoun, who had fled from Scotland, to escape the vengeance of Charles II.

" When he was at Hamburg, (1663,) he was seized with a severe illness, during which, Dr. Bates, one of King Charles's physicians, gave him poison instead of physic, and then ordered to draw from him sixty ounces of blood, by which he was brought to the gates of death, and so far lost his memory, that he could not remember what he had done or said a quarter of an hour before, and continued in that condition ever after." *Church of Scotland*, (1749,) i. 162.

Dr. Bates's description (*Elenchus*, p. 330,) of the rapid decomposition observed in the Protector's corpse, if it have no reference to the question of poison, renders it very uncertain whose corpse was exhibited at Tyburn, sixteen months afterwards, (see vol. iii. p. 546, *note*,) with the bodies of Ireton and Bradshaw, to gratify the petty revenge of the restored Stuart.

In various parts of these volumes, are passages which will assist an enquirer to decide for himself, what praise or censure may justly belong to the character and conduct of the Protector. It may, however, be remarked, that if, in the earlier periods of his public life, he had possessed a generous patriotism, such as his colleague, Sir Henry Vane, appears to have indulged, he must have resigned himself to a less noble influence, when, with real or affected passion, he stamped with his foot on the floor of the House of Parliament, as a signal for his attendant soldiers to disperse the assembly. The desire of sovereign rule, though not unaccompanied with some just and liberal purposes, must, at that moment, have been predominant, and, probably, the fond ambition, left at last unsatisfied, of founding in his family a royal house: an ambition which a Washington, devoted with singleness of purpose to his country's freedom, would lightly esteem; but which a Cromwell or a Napoleon—

“ A genius bright and base,
Of tow’ring talents and terrestrial aims,”

might be expected to indulge.

It may be conjectured, that the Long Parliament would, eventually, have conciliated the people to their patriotic purpose of founding a free and unexpensive government. On such a supposition, we are almost prepared to execrate his memory, who was impelled by a selfish ambition to interrupt their labours, and to assume their authority.

On the other hand, it may be alleged, with no small plausibility, that an ill-educated people,* whose priests had been so frequently “instructed to teach speculative despotism, and graft on religious affections systems of civil tyranny,”† and whose history had known no government but the royal, to which they were devoted; not so much for political uses, as for its imposing forms of dignity; would, at last, have been ready to declare, like Bishop Burnet, speaking for a later age, “we won’t be governed by one another,

* See vol. iii. p. 237.

† *Catharine Macaulay.*

and therefore must have a sovereign to rule over us."* Thus characterising the people of England, in 1653, we regard, not without some veneration, the man who, amidst all the disadvantages of personal insecurity, administered with so much wisdom and vigour the Government he had usurped, as, for six years, to avert from his country, that deep disgrace to our national history, the Restoration of the Stuarts.

But the tolerant spirit of the Protector's Government, on every question unconnected with civil authority,† and this, uniformly discovered, amidst the evil examples of an intolerant age,‡ may seem almost to atone for the wrongs of his usurpation. How advantageously, for his lasting fame, may this intruder on sovereign power be here compared with the Tudors and the Stuarts, or even with "the hero William;" a prince whose character begins, at length, to be understood, after he had been so long misrepresented, as a patron of civil and religious liberty.§

* See *supra*, p. 417, note.

† "It is certain," says Bishop Kennet, (of whom see vol. iii. p. 412, *ad fin.*) "that the Protector was for liberty, and the utmost latitude to all parties, so far as consisted with the peace and safety of his person and government; and therefore, he was never jealous of any cause or sect, on the account of heresy and falsehood, but on his wiser accounts of political peace and quiet. And even the prejudice he had against the Episcopal party, was more for their being Royalists, than for being of the good old Church." *Conform. Plea*, pt. 4, p. 310; in "Bishop Hall's Life and Time," (1826,) p. 244; see vol. ii. p. 215, note.

‡ Thus the author of "Tithes Vindicated," (1659,) describes the appearance and progress of the "deluded and deluding Quakers," as "a warning for Christian states, how they make Acts for toleration, and especially for ministers, how they print and plead for toleration." *King's Tracts*, sm. 4to. No. 781. The following curious relation, shows how the Protector, to the last, was ready to receive the representations of the persecuted Quakers:

"A short time before Oliver's death," says Sewall, "George Fox went to Hampton Court, to speak with him about the sufferings of his friends. With this intention, he met him riding into Hampton Court Park, and before he came to him, he perceived a waft of death go forth against him, and coming up to him, he looked like a dead man." See "History of Quakers," p. 187, in Dr. Grey's *Examination of Neale*, (1739,) p. 219, note.

§ See vol. ii. p. 452, note; confirming the remarks of Catharine Ma-

Poets lamented the Protector, and celebrated his administration of sovereign power, in English verse not soon to perish, and in the classic tongues. Those accommodating bards, especially Waller and Dryden, were quickly prepared to hail the glories of the Restoration, though in confessedly feebler strains, as if condescending to the level of a more ordinary theme.

The pride, or policy, or rather the filial affection of Richard Cromwell honoured his father's memory with a funereal pomp, extravagantly royal, and of improvident expenditure.† But, whatever the artist or the herald had contributed to the Protector's renown, immediately disappeared on the restoration of Royalty; and the mouldering tabernacle of his mighty mind‡ was forbidden to contaminate the sepulchre of kings. Yet, after the just censures of truth and freedom, on the origin, or the occasional administration of his power, there remains for Oliver Cromwell, among the proudest memorials of his country's fame, a *monumentum ære perennius*, such as few kings have had the fortune to erect; and which, guarded by the pen and the press, the artillery of æthereal temper, not the most potent prince, even another Omar, shall be able to destroy.

caulay, "that William was as tenacious of power as his predecessors;" and "that the enlarging civil liberty, was not his errand" in 1688. See "Letters on the History of England," (1779,) pp. 8, 144.

I had occasion, a few years since, to collect the historical evidence, that King William was no friend to *religious* liberty. See *Monthly Repository*, (1822,) xvii. 70—73.

† See *Appendix*, No. 7.

‡ See Bishop Burnet's account of his "great design for the interest of the Protestant religion." *Own Time*, i. 77. Amidst the cares and especial perplexities of a disputed government, the Protector had also projected the foundation and endowment of a northern English University: a *desideratum*, yet unattained. See *Appendix*, No. 8.

APPENDIX.

APPENDIX.

No. I.

(Vol. i. pp. 356, 368.)

*A Brief Relation of the late Dangerous Plot for the
Destruction of his Highness's person.*

THE common enemy having failed in all their former plots and conspiracies, for the ruin of his Highness * and the Government, resolved, (it seems) at last, to bring about their intended mischief, by a vigorous and bloody attempt upon his person. For this end and purpose, they sought out, and gained to themselves instruments in all points fitted for the execution of their inhuman cruelty. The principal man employed, was a notable desperate fellow, named *Sindercomb*, one who, heretofore, had been a quarter-master under Sir John Reynolds,† in the army, and was about two years ago cashiered by General Monk, among others in Scotland. As assistant to him in this wickedness, he associated to himself one Cecil; and many others were engaged in the business, whom, we hope, time will discover. In the mean time only these two persons are in custody.

For the carrying on their work, they held correspondence with some in Flanders, received directions thence from time to time, and for their encouragement, Don Alonzo, the late ambassador of Spain, in England, returned them over sums of money, with which they were enabled to proceed. The most likely way, (as they conceived) to accomplish the devilish purpose, was to contrive some means

* "It appears," says Bishop Warburton, (on *Clarendon*), "by Thurloe's Papers, that the royal family did project and encourage Cromwell's assassination." *History of the Rebellion*, (1826,) vii. 640.

† See *supra*, pp. 74, 115, notes.

how to dispatch his Highness, as he should be going to Hampton Court;* and that they might do it with security to themselves, by having an opportunity to escape, after the fact committed, they took a house at Hammersmith, which house hath belonging to it a little banquetting-room, which stands upon the road, at the said town, in a narrow dirty place of passage, where coaches used to go but softly, and that room they meant to make use of, by planting an engine in it, which, being discharged, would have, upon occasion, torn away coach and person in it that should pass by, and they had such an engine preparing. And because it was necessary for them to have information of the times when his Highness should go abroad to take the air, and the places whither, *Sindercomb* cast about in his mind, which way to draw in some one person near his Highness, to be a partaker in the design, and acquaint them in what part of the coach his Highness should sit, going to Hampton Court, that so they might be sure not to miss him; and when the execrable deed should have been executed, they intended to have made an escape.

For this purpose they bought up divers of the fleetest horses about London, which they kept in that house at Hammersmith; and for conveniency of escaping, the house they had hired stood down at some distance from that road, and had an outlet to another road. The person whom they made sure (as they thought) to be their informer, touching the out-goings of his Highness, was one of the life guard, who had formerly been an acquaintance of *Sindercomb* in the army, and they gave him ten pounds in money at first to engage him, adding thereto a promise of fifteen hundred pounds. This was one way that they resolved on, by making use of the place at Hammersmith.

But they were not negligent in seeking other opportunities besides, and therefore (as occasion offered many times) they were wont to thrust themselves in among those that rode abroad with his Highness. Once they thought to have done their work as his Highness was taking the air in Hyde-park; and, to make way for

* One of the palaces retained "for the public use of the Commonwealth," and excepted from "the sale of crown lands," in the Act "July 16, 1649." See *Scobell* (1658,) part ii. p. 63; *Parl. Hist.* (1763,) xix. 137. *Ludlow* "with others of the Parliament," in 1650, was "with the Lord Fairfax at Hampton Court when the first news of the battle of Dunbar was brought to London." *Memoirs*, p. 329. See vol. i. p. cxxi. note.

their escape, they had, in one place, filed off the hinges of the gates, and rode about with the train attending his Highness, with intent then to have given him a fatal charge, if he had chanced to have galloped out, at any distance from the company.

After several attendances of this nature, and prying up and down, (having recourse also many times to Whitehall) and finding no occasion as yet to favour their purpose; thereupon they resolved to give their beyond sea correspondent a proof of their resolution, by firing of Whitehall. To this end they cut a hole in one of the doors of the chapel, and so unbolting it, they, on the eighth of this month, went in and placed the materials for firing, which were discovered about nine o'clock that night; for in one of the seats was found upon the floor, a basket filled with a strange composition of combustible stuff, and two lighted matches, aptly placed, which matches had been rubbed over with gunpowder, on purpose to keep them surely burning, and by the length of them, it was conceived they would have given fire to the basket about one o'clock in the morning. The basket being removed, and trial made of some part of the ingredients, it appeared to be most active flaming stuff.*

The next day the two persons being apprehended, they were found to have screwed pistols, which, upon trial, appear notable instruments to do execution at a distance more than ordinary; and they had also a strange sort of long bullets, in the nature of slugs, contrived on purpose to rend and tear.

These things are made manifest, not only by many particulars of discovery, but by the confession also of one of the parties, viz. *Cecil*, who hath cast himself upon the good grace and mercy of his Highness.

What other parties of men have been consenting in this treasonable conspiracy, and what other concurring design was to have been put in execution, in case they had fired the house, we hope that God will, in his good time, bring to light. In the mean space, it is to be observed from hence, how restless the enemies are on

"Captain Titus," (under the name of Jennings,) thus writes from "Antwerp, Feb. 3, 56-7," to "Sir Edward Hyde:

"As far as I can see into the matter, this powder plot required too much time, too many persons, and was subject to too many accidents, to be carried on with any reasonable hopes that it should succeed." See "Clarendon State Papers," iii. 321.

the other side of the water, to disturb the peace of the nation; and that, for the compassing of their ends, they count it the more expeditious way to ruin the good people, if they could first destroy his Highness's person, whom God preserve.*

A Narrative touching Colonel Edward Sexby, who lately died a Prisoner in the Tower : dated

" Tower of London, Jan. 20, 1657-8."

The 12th of October, 1657, being well come to himself, and having sent for the Lieutenant, he was so ingenuous as to confess in part, saying unto him:

" Sir John, I sent to you, to tell you, that I am guilty of the whole business of Sindercomb, as to the design of killing the Lord Protector, &c. and to that purpose, I furnished Sindercomb with money, and also with arms, and tied him to an engagement, that he should not reveal the design." And further, he said: " The letters they have of mine, they could not prove them to be mine but by my own confession, which I now confess and acknowledge that they are mine, and that I was with Charles Stuart,† and acquainted him that I was an enemy to the Lord Protector; and I also declare, that I received a large sum of money from the Spaniard, to carry on my said design, and to make what confusion I could in

* *Mercurius Politicus*, No. 345, (Jan. 15, to 22, 1656-7;) *Public Intelligencer*, No. 67.

† To whom, according to Lord Clarendon, he was introduced by Don Alonzo de Cardinas, (*History*, iii. 639.) From the following passage in a letter of " Captain Titus. Antwerp, Jan. 27, 1657," to " Sir Edward Hyde," it appears that there was an earlier project for assassinating the Protector. (See vol. i. pp. 354, 355.)

" Never was any thing more unhappily prevented than the killing Cromwell, the first day of the Parliament; and I find the relation Sexby made of that business was true, for Major Wood was a spectator. All things were as well prepared as was imaginable, and Major-general Browne [See vol. iv. p. 424, *ad fin.*] resolved, had it taken effect, to engage; since that time, those that were to do it have grown cold, and could never agree of the way; but Major Wood is very confident, that had not Sexby come away, the business had been done long since, and I cannot but be of the same opinion. However, there is yet no disorder in the affair, and Sexby is resolved to prosecute it, and speedily to put things to a trial; and to that purpose he is preparing to go suddenly for England." See " Clarendon State Papers," (1786,) iii. 321.

England, by endeavouring the killing of the Lord Protector, and by what other ways I had in design. And to the end, the better to effect it, I came into England in a disguised habit, and was the principal in putting on others in the said design."

Many other like passages were spoken by him, in presence of many credible witnesses; and within two days after, in the presence of Mr. Caryl,* minister, and others, he did acknowledge the former confession to be truth. And then he again confessed, that he was the only man that put on Sindercomb to kill the Lord Protector, and that the book called, "Killing No Murder,"† he owned; and said, he was still of that judgment; yet said, it was both foolishly and knavishly done in that book, to charge the Lieutenant of the Tower, touching Sindercomb's death.‡

* A voluminous commentator on the Book of Job. Hence it became a saying, that "poor Job made a rich Caryl."

† See *supra*, p. 312, *ad fin.* vol. iii. p. 129, note †. "Advertisement, Dec. 31, 1637. 'Killing is Murder,' or an exercitation concerning a book entituled 'Killing no Murder.' By Michael Hawkes of the Inner Temple, Gent." *Mercurius Politicus*, No. 398, p. 220.

‡ Colonel Saxby must here have referred to the conclusion of the following passage:—

"Our nation is not yet so barren of virtue, that we want noble examples to follow amongst ourselves. The brave Sindercomb hath showed as great a mind as any old Rome could boast of; and, had he lived there, his name had been registered with Brutus and Cato, and he had had his statues as well as they.

"But I will not have so sinister an opinion of ourselves (as little generosity as slavery hath left us) as to think so great a virtue can want its monuments even amongst us. Certainly, in every virtuous mind, there are statues reared to Sindercomb. Whenever we read the elegies of those that have died for their country; when we admire those great examples of magnanimity, that have tired tyrants' cruelties; when we extol their constancy, whom neither bribes nor terrors could make betray their friends; it is then we erect Sindercomb statues, and grave him monuments; where all that can be said of a great and noble mind, we justly make an epitaph for him. And though the tyrant caused him to be smothered, lest the people should hinder an open murder, yet he will never be able either to smother his memory or his own villany. His poison was but a poor and common device to impose only on those that understood not tyrants' practices, and are unacquainted (if any be) with his cruelties and falsehoods. He may therefore, if he please, take away the stake from Sindercomb's grave; and if he have a mind it should be known how he died, let him send thither the pillows and feather-beds

The 13th of this instant, January, having said, "Lord have mercy upon me, I am very sick!" about five of the clock, he breathed out his last, and died.*

No. II.

(Vol. i. p. 369.)

Some heads of the Speech spoken by Mr. Speaker, to his Highness, in the name of the Parliament.†

He was but short, because of his infirmity of body, by sickness. Applying himself to his Highness, he, in the first place, took

with which Barkstead and his hangman smothered him." *Killing No Murder*, (1735,) pp. 32, 33. See vol. iii. p. 79, *note*.

Lord Clarendon, on the death of Sindercomb, is made by his noble and reverend editors, in 1704, to say, (*History*, iii. 647,) "that Cromwell found himself under the reproach of having caused him to be poisoned." Yet, among the passages suppressed without acknowledgment in 1704, but now restored from the author's *autograph MS.*, is the following:—

"Though it did appear upon examination, that the night before, when he was going to bed, in the presence of his guard, his sister came to him to take her leave of him; and whilst they spake together at the bedside, he rubbed his nose with his hand, of which they then took no notice; and she going away, he put off his clothes and leaped in his bed, with some snuffing in his nose, and said, 'this was the last bed he should ever go into;' and seemed to turn to sleep, and never in the whole night made the least noise or motion, save that he sneezed once. When the physicians and surgeons opened his head, they found he had snuffed up, through his nostrils, some very well prepared poison, that in an instant curdled all his blood in that region, which presently suffocated him." *History*, (1826,) vii. 290, *note*.

* *Public Intelligencer*, No. 118. See *Mercurius Politicus*, No. 398, 399.

† "A late pamphlet tells us of a great design discovered against the person of his Highness, and of the Parliament's coming (for so does that juno profane that name,) to congratulate with his Highness, his happy deliverance from that wicked and bloody attempt. Besides this, that they have ordered that God Almighty shall be mocked with a day of thanksgiving, (as I think the world is with the plot,) and that the people shall give public thanks for the public calamity, that God is yet pleased to continue his judgments upon them, and to frustrate all means that are used for their deliverance. Certainly none will now deny that the English are a very thankful people.

"But

notice of the advertisement that had been given to the Parliament, touching the happy deliverance of his Highness from the late bloody attempt designed upon his Highness's person, for which the Parliament was now come to congratulate with his Highness.

He considered the greatness of the mercy in itself, and as it was heightened in its circumstances.

1. He considered it as a business that the welfare and safety, not only of the people of this nation, but of all the Reformed Churches, was involved in.

2. That it was carried on by few hands, and so the more dangerous, because less subject to discovery.

3. He observed the cruelty in the intents of the actors, in the intended manner of the execution.

4. The extensiveness of the wicked design, that it was not laid in one place only, but in many; and if opportunity served not in one place, then to have attempted the execution in another.

So that, take it in all its circumstances, (he said) no orator could be sufficient to set it forth; and that, if Cicero were alive, his eloquence would fall short upon the subject.

And, therefore, that the great thing to be looked unto, upon the present occasion, was, the returning of praise to God; and to say with the Psalmist, *Cantemus canticum novum*, "Let us sing a new song." New mercies require new returns, new deliverances, new thanksgivings. And here he desired to put a question, not a new one, but an old one, which was put by the best of kings, *David*, Ps. 116, *What shall I render to the Lord for all his mercies?* To which (he said) he needed not make an answer, for that David himself had done it long before. *We will take the cup of salvation, and call upon the name of the Lord.*

He observed, moreover, that this deliverance was matter of great rejoicing not only to these nations, but to the whole body of Protestants, throughout the world; for, though the design was particularly against his Highness, yet, in his person, against them all.

"But I think, if we had read in Scripture that the Israelites had cried unto the Lord, not for their own deliverance, but the preservation of their task-masters, and that they had thanked God with solemnity, that Pharoah was yet living, and that there were still great hopes of the daily increase of the number of their bricks; we should have thought that Moses had done them a great deal of wrong, if he had not suffered them to enjoy their slavery, and left them to their tasks and garlick." *Killing no Murder*, p. 6.

That, in the preservation of his Highness's person, their's doth consist, and in his destruction, the destruction of them.

He concluded, that such designs as these must be expected ; plots, conspiracies, and all that is wicked, out of the bottomless pit, seeing the Devil, who is the Prince of Darkness,* the fountain and father of mischief, will not let his emissaries be idle, but he always contriving, since this design would not take, how another may be laid, that what one could not effect, another may. Adding withal, that it was the humble and earnest prayer of the Parliament to Almighty God, and their great hope, that God will, according to his wonted grace and mercy, preserve his Highness, and watch over him for good, that all the plots of the enemy, like the counsel of *Achitophel*, may be turned into foolishness, and so order things, that the best of the adversary's productions may be but to produce wind, and that wind prove a means to scatter them and all their contrivances.†

The Protector's Reply.

Mr. Speaker,

I confess, with much respect, that you have put this trouble on yourselves upon this occasion ; but I perceive there be two things that fill me full of sense. One is, the mercy on a poor un-

* " My design is, to examine whether, if there hath been such a plot as we hear of, and that it was contrived by Mr. Sindercomb against my Lord Protector, and not by my Lord Protector against Mr. Sindercomb, (which is doubtful,) whether it deserves those epithets Mr. Speaker is pleased to give it, of bloody, wicked, and proceeding from the prince of darkness.

" I know very well, how incapable the vulgar are of considering what is extraordinary and singular in every case ; and that they judge of things, and name them by their exterior appearances, without penetrating at all into their causes or natures : and without doubt, when they hear the Protector was to be killed, they straight conclude a man was to be murdered, not a malefactor punished ; for they think the formalities do always make the things themselves, and that it is the judge and the crier that make the justice, and the gaol the criminal. And therefore, when they read in the pamphlet Mr. Speaker's speech, they certainly think he gives these plotters their right titles ; and, as readily as a high court of justice, they condemn them, without ever examining whether they would have killed a magistrate or destroyed a tyrant, over whom every man is naturally a judge and an executioner, and whom the laws of God, of nature, and of nations expose, like beasts of prey, to be destroyed as they are met." *Killing no Murder*, pp. 6, 7.

† *Mercurius Politicus*, No. 346.

worthy creature : the second is, this great, (and, as I said,) unexpected kindness of Parliament, in manifesting such a sense thereof, as this is, which you have now expressed. I speak not this with compliment, that that detracts from the thing (in some sense,) is the inconsiderableness and unworthiness of the person that hath been the object and subject of this deliverance, to wit, myself. I confess ingenuously to you, I do lie under the daily sense of my unworthiness and unprofitableness, as I have expressed to you ; and if there be, as I must readily acknowledge there is, a mercy in it to me, I wish I may never reckon it on any other account, than this, that the life that is lengthened, may be spent and improved to his honour, that hath vouchsafed the mercy, and to the service of you, and those you represent.

I do not know, nor did I think it would be very seasonable for me to say much to you upon this occasion, being a thing that ariseth from yourselves. Yet, methinks, the kindness you bear, both should kindle a little desire in me, even at this present, to make a short return. And, as you have been disposed hither by the Providence of God, to congratulate my mercy ; so give me leave, in a very word or two, to congratulate with you. Congratulations are ever conversant about good, bestowed upon men, or possessed by them. Truly, I shall in a word or two congratulate you with good you are in possession of, and in some respect, I also with you. God hath bestowed upon you (and you are in possession of it,) three nations, and all that appertains to them, which, in either a geographical, nor topical consideration, are nations, in which also there are places of honour and consideration, not inferior to any in the known world (without vanity it may be spoken ;) truly God hath not made so much soil, furnished with so many blessings, in vain. But it is a goodly sight, if a man behold it, *vno intuitu*, and, therefore, this is a possession of yours, worthy of congratulation.

This is furnished (give me leave to say) for I believe it is true, with the best people in the world possessing so much soil ; a people in civil rights, (in respect of their rights and privileges,) very ancient and honourable. And in this people, in the midst of this people, a people (I know every one will hear it,) that are to God as the apple of his eye, and he says so of them, be they many, or be they few. But they are many, a people of the blessing of God, a people under his safety and protection : a people calling upon the name of the Lord, which the heathen do not, a people knowing God, and a people (according to the ordinary expressions) fearing God. And you have of

this no parallel, no, not in all the world. You have in the midst of you glorious things. Glorious things, for you have laws and statutes, and ordinances, which, though not so, (all of them) conformable, as were to be wished to the law of God, yet, on all hands, pretend not to be long rested in further, than as they are conformable to the just and righteous laws of God. Therefore, I am persuaded, there is a heart and spirit in every good man, to wish they did all of them answer the pattern: I cannot doubt but that which is in the heart, will in due time break forth; that endeavours will be that way, is another of your good things, with which in my heart you are worthily to be congratulated.

And you have a magistracy, that in outward profession, in pretence, in endeavour, doth desire to put life into these laws. And I am confident, that among you will rest nothing, but a desire to promote every desire in others, and every endeavour that hath tended or shall tend to the putting of these laws in execution. I do for this congratulate you, you have a gospel ministry among you. That have you; such an one, as, without vanity I speak it, or without caring at all for any favour, or respect from them, save what I have upon an account above flattery, or good words, such an one, as hath excelled itself, and I am persuaded, to speak with confidence before the Lord, is the most growing blessing, one of them, on the face of this nation.

You have a good eye, and in that I will share with your good favours, a good God, a God that hath watched over you and us, a God that hath visited these nations with a stretched out arm, and bore his witness against the unrighteousness and ungodliness of men, against those that have abused such nations, such mercies throughout, as I have reckoned up to you; a God that hath not only withstood such to the face, but a God that hath abundantly blessed you, with the evidences of his goodness and presence. And he hath done things wonderful amongst us, by terrible things in righteousness; he hath visited us by wonderful things. In mercy and compassion hath he given us this day of freedom and liberty to speak this, one to another, and to speak of his mercies, as he hath been pleased to put into our hearts.

“ Truly, this word of conclusion, if this be so, give me leave to remember you but one word, which I offered to you with great love and affection, the first day of meeting with you, this Parliament. It pleased God to put into my heart, then, to mention a scripture to you, which would be a good conclusion of my speech now at this

time to you. It was that we being met to seek the good of so great an interest, as I have mentioned, and the glory of that God who is both yours and mine, how could we better do it than by thinking of such words as these: "His salvation is nigh them that fear him," that glory may dwell in our land. I would not comment upon it. I hope I fear him, and let us more fear him. If this mercy at all doth concern you as I see it doth, let me, and I hope you will with me, labour more to fear him. Then we have done; seeing such a blessing as his salvation is nigh them that fear him, seeing we are all of us representatives of all the good of all these lands, that glory may dwell in our land. If it be so, "Mercy and Truth shall meet together, Righteousness and Peace shall kiss each other." We shall know, you and I, (as the father of this family) how to dispose our mercies to God's glory: how to dispose our severity; how to distinguish betwixt obedient and rebellious children, and not to do as Eli did; who told his sons, he did not hear well of them, when, perhaps, he saw ill by them. And we know the severity of that. And, therefore, let me say, that, though I will not descant upon the words, mercy must be joined with truth, truth, in that respect, that we think it our duty, to exercise a just severity, as well as to apply kindness and mercy. And, truly, Righteousness and Peace must kiss each other. If we will have peace without a worm in it, lay we foundations of justice and righteousness. And if it shall please God so to move you, as that you marry this redoubtable couple together, Mercy and Truth, Righteousness and Peace, you will, (if I may be free to say so,) be blessed, whether you will or no. And that you and I may for the time the Lord shall continue us together, set our hearts upon this, which shall be my daily prayer, and I heartily and humbly acknowledge my thankfulness to you."*

No. III.

(Vol. ii. p. 2.)



His Highness's Answer at the Conference at the Committee, at Whitehall, April 13th, 1657.†

My Lord,

I think I have a very hard task upon my head, though it be but to give an account of myself; yet I see I am beset on all hands

* *Lansdown MSS. 755, No. 244; (Pell Papers); see vol. ii. pp. 351, 352, note.*

† This speech, like the other speeches in the same volume, appears frequently to suffer, in point of correctness, either from a misreport, or,

here. I say, but to give an account of myself; but it is in a business that is very comprehensive of others; in some sense, to us, and, as the Parliament hath been pleased to make it, to all the interest of these three nations.

I confess, I consider two things: first, to return some wary answer to the things that were so ably, and well said, the other day, on behalf of the Parliament's putting that title in the Instrument of Settlement. I hope it will not be expected that I should answer to every thing that was then said; because I suppose the main things that were spoken, were arguments from ancient constitutions, and settlement by the laws, of which I am sure I could never be well skilled, and therefore must ask the more pardon in what I have transgressed in my practice, or shall now transgress, through my ignorance of them, in my answer to you.

Your arguments,* which I say were chiefly upon the law, seem to carry with them a great deal of necessary conclusion, to inforce that one thing of kingship; and if your arguments come upon me to inforce upon the ground of necessity, why then I have no room to answer, for what must be, must be. And therefore, I did reckon it much of my business to consider whether there were such a necessity, or would arise such a necessity from those arguments.

It was said that kingship is not a title but an office; so interwoven with the fundamental laws of this nation, as if they could not, or well could not be executed, and exercised without; partly (if I may say so), upon a supposed ignorance of the law, that it hath of any other title. It knows no other, neither doth any other

more probably, from errors of the press, and especially of the punctuation. This I have here endeavoured to correct.

* Among these, were the following, urged by Lord Broghill, at the previous conference, April 11.

"The end of all government, is to give people justice and safety; so that, if the title and office of King be vested in your Highness, and that thereby the people enjoy their rights and peace, it would be little less than madness for any of them to cast off those blessings, only in order to obtain the same end under another person.

"There is, at present, but a divorce between the pretending king, [see vol. i. p. 357, *ad fin.*] and the imperial crown of these nations, and we know that persons divorced may marry again; but if the person be married to another, it cuts off all hope." *Monarchy Asserted*, pp. 27, 28.

know it. This title, or name, or office, as you please to say, is understood in the dimensions of it, in the power and prerogatives of it, which are by the law made certain, and the law can tell when it keeps within compass, and when it exceeds its limits. And the law knowing this, the people can know it also, and people do love what they know, and it will neither be *pro salute populi*, nor for our safety, to obtrude upon them, names; that they do not, nor cannot understand.

It is said also, that the people have been always by their representatives in Parliament, unwilling to vary names, for as much, as hath been said before, as they love settlement. And there were two good instances given of that, the one in King James's time, about his desire to alter somewhat of the title,* and another in the Long Parliament, wherein they being otherwise rationally moved to admit of the word Representative instead of Parliament, they refused it for the same reason.† It hath been said also, that the

* The Protector refers to the following passage, in the speech of Lenthall, Master of the Rolls, at the Conference, April 11:—

“There was a time, (a very late time too) when a prince of this nation would change this name, and it was a very slender change. For it was but from the King of England, to the King of Great Britain, And this was presented to the Parliament. It had a debate of many days, and it was resolved there and settled, that they could not change. There was so much hazard in that change, they knew not but that all their rights and liberties might be thereby altered. And when the king saw he could not obtain it of the House, he declared by Proclamation, that he never intended to take any name upon him, that should put a doubt to the liberties and privileges of Parliament, and caused this Proclamation to be put among the statutes, I may say it, indeed, very cunningly to be printed, and put among the statutes, though, indeed, it was none. And because there was a danger, he laid it down willingly. Only, says he, your divines in the pulpit shall pray for me by the title King of Great Britain, and Ambassadors shall make their addresses by that name, but in your laws I will not alter the name.” *Monarchy Asserted*, pp. 12, 13.

This speaker must have referred to 2 Jac. 1604, when James was “proclaimed King of Great Britain, France, and Ireland, that the names of England and Scotland might, thenceforth, be extinct.” *Parl. Hist.* (1763,) v. 124.

† “In the Parliament,” says the Master of the Rolls, “there was a question whether we should not alter the name of Parliament, and call it the *Representative of the People*, but the whole House went upon

holding to this word doth strengthen the settlement, because it doth not any thing *de novo*, but resolves things in their old current. It is said, it is the security of the Chief Magistrate, and that it secures all that act under him.

Truly these are the principal of those grounds that were offered the last day, so far as I do recollect. I cannot take upon me to refell those grounds, for they are so strong and rational; but if I shall be able to make any answer to them, I must not grant that they are necessarily concluding, but take them only as arguments, that they have perhaps much of conveniency; and probability towards concluding; for if a remedy or expedient may be found, then they are not necessary. They are not inevitable grounds, and if not necessary and concluding, why then they will hang upon the reason of expediency or conveniency, and if so, I shall have a little liberty. Otherwise I am concluded, before I speak, and therefore it will behove me to say what I have, why they are not necessary conclusions, not that they are, nor that it is (I should say) so interwoven in the laws, but that the laws may not possibly be executed to equal justice and equal satisfaction of the people and equally to answer all objections as well without it as with it. And then when I have done that, I shall only take the liberty to say a word or two for my own grounds, and when I have said what I can say as to that, I hope you will think a great deal more than I say.

Truly, though kingship be not a title but a name of office that runs through the law, yet it is not so *ratione nominis*, but from what is signified. It is a name of office, plainly implying a Supreme Authority. Is it more, or can it be stretched to more? I say, it is a name of office, plainly implying the Supreme Authority, and if it be so, why then I would suppose, (I am not peremptory in any thing that is matter of deduction or inference of my own,) why

this ground, that by changing the name of Parliament to a Representative we did not know how it might change the very course, ground and reason of Parliament. There is a great deal of a thing in the very name. I remember, a very honourable person, now with God, [see vol. ii. p. 397, *ad fin.*] was then very earnest for it, for having this name changed; and he did show many reasons for it; but hearing the debates and reasons against it, he sat down and was satisfied, I think I may name him, it was my Lord Ireton, who did say he was satisfied it was not fit to be done at that time." *Monarchy Asserted*, p. 13.

then I should suppose that whatsoever name hath been or shall be the name, in which the Supreme Authority shall act ; why, (I say) if it had been those four or five letters, or whatsoever else it had been, that signification goes to the thing. Certainly it does, and not to the name. Why then, there can be no more said, but this, why this hath been fixt, so it may have been unfixt ; and, certainly, in the right of the authority ; I mean as a legislative power, in the right of the legislative power. I think the authority that could christen it with such a name, could have called it by another name, and therefore it was but derived from that. And certainly they had the disposal of it and might have had it. They might have detracted or changed. And I hope it will be no offence to you, to say, (as the case now stands,) so may you. And if it be so that you may, why then, I say, there is nothing of necessity in your argument, but consideration of expedience of it. I had rather (if I were to chuse) it were the natural question ; which, I hope, is altogether out of the question.

But I had rather have any name from this Parliament than any name without it, so much do I value the authority of the Parliament ; and I believe all men are of my mind. In that, I believe, the nation is very much of my mind ; though that be an uncertain way of arguing what mind they are of. I think we may say it without offence, (for I would give none,) though the Parliament be the truest way to know what the mind of the nation is ; yet if the Parliament will be pleased to give me a liberty to reason for myself ; and that that be made one argument, I hope I may urge against that. Else I cannot freely give a reason of my own mind. But I say, undoubtingly, (let us think what we will,) what the Parliament settles, is that which will run through the law, and will lead the thread of Government through the land, as well as what hath been, considering what hath been upon the same account. Save that there hath been some long continuance of the thing, it is but upon the same account. It had its original somewhere, and it was in consent of the whole. There was the original of it ; and consent of the whole will, I say, be the needle that will lead the thread through all ; and I think no man will pretend right against it, or wrong, and (if so) then under favour to me, I think all those arguments from the law are (as said before) not necessary, but are to be understood upon the account of conveniency. It is in your power to dispose and settle ; and before we can have confidence that what you do settle, will be as authentic as those things

that were before, (especially, as to the individual thing,) the name or title upon Parliamentary account; upon Parliamentary, why then I say, there will be way made, (with leave,) for me to offer a reason or two, to all that hath else been said. Otherwise, I say, my mouth is stopt.

There are very many enforcements to carry on this thing. I suppose it will stand upon a way of expediency and fitness. Truly, I should have urged one consideration more that I had forgotten; and that is, not only to urge the things for reason, but for experience. Perhaps it is a short one, but it is a true one, (under favour,) and is known to you all in the fact of it, (under favour;) although there hath been no Parliamentary declarations, that the supreme authority going in another name, and under another title than King; why it hath been complied with twice without it. That is under the *Custodes Libertates Angliæ*.^{*} It hath, since I exercised the place; and truly, I may say, that almost universal obedience hath been given by all the ranks, and sorts of men to both. And to begin with the highest degree of magistracy at the first alteration; and when that was the name, and though it was the name of an invisible thing, yet the very name, (though a new name) was obeyed, did pass for current, and was received, and did carry on the justice of the nation. I remember very well, that my Lords, the Judges, were somewhat startled; and yet, upon consideration, (if I mistake not,) I believe so, there being of them, without reflection, as able and as learned as have sat there, (though they did, I confess, at first, demur a little,) yet they did receive satisfaction, and did act† as I said before.

I profess it, for my own part, I think I may say it, since the beginning of that change, I would be loth to speak any thing vainly; but since the beginning of that change unto this day, I do not think in so many years those that were called, (and worthily so accounted,) halcyon days of peace in 20 Eliz. and King James's and King Charles's time. I do not think but that the laws did proceed with as much freedom and justice, with less private solicitation either from that, that was called then so, or since I came to the Government; I do not think (under favour) that the laws have had a more free exercise; more uninterrupted by any hand of power; the judge less solicited by letters or private interpositions,

* See vol. ii. p. 40, note. a.

† See *ibid.* p. 431, notes * †.

either of my own or other men's, in double so many years, in all those times of peace ; and if more of my Lords, the Judges, were here then now are, they could tell what to say, to what had been done since. And therefore, I say, (under favour,) these two experiences do manifestly show, that it is not a title ; though so interwoven with the laws, that makes the law to have its free passage, and do its office without interruption, (as we think,) but that if a Parliament shall determine that another name shall run through the laws, I believe it may run with as free a passage as this ; which is all that I have to say upon that head.

And if this be so, then truly other things may fall under a more indifferent consideration, and then I shall arrive at some issue, to answer for myself in this great matter ; and all this while nothing that I shall say doth any way determine my resolution, or thoughts against the Parliament, but really and honestly, and plainly, considering what is fit for me to answer. The Parliament desires to have this title. It hath stuck with me, and yet doth stick. And truly, although I hinted the other day, that your arguments to me did partly give positive grounds for what was to be done : and comparative grounds, saying, that which you were pleased to do ; and I gave no cause for, that I knew of ; that is, to compare the effects of kingship, with such a name as I for the present bear, with Protectorship ; I say, I hope it will not be understood, that I do contend for the name, or any name, or any thing ; but truly and plainly, (if I speak as in the Lord's presence,) in all things, as a person under the disposition of the providence of God, neither naming one thing nor other ; but only answering to this name or title. For, I hope, I do not desire to give a rule to any body ; because I have professed I have not been able ; and, I have said truly, I have not been able to give one to myself.

But I would be understood in this. I am a man standing in the place I am in ; which place, I undertook not so much out of the hope of doing any good, as out of a desire to prevent mischief and evil, which I did see was eminent in the nation. I say we were running headlong into confusion and disorder, and would necessarily run into blood ; and I was passive to those that desired me to undertake the place which now I have.* I say, not so much

* See the Protector's piteous complaint, how the officers of the army " had made him their drudge, to dissolve the Long Parliament," vol. i. p. 383. See also vol. iii. p. 129, note †.

of doing good, which a man may lawfully, if he deal deliberately with God and his own conscience, a man may, I say, lawfully, as the case may be, (though the case is very tickle,) desire a great place to do good in.

I profess I had not that apprehension when I undertook the place that I could do much good; but I did think that I might prevent eminent evil; and therefore, I am not contending for one name compared with another, and have nothing to answer to any arguments, that were used in giving preference to Kingship or Protectorship; for I should almost think that any name were better than my name; and I should altogether think any person fitter than I am, for any such business. And I compliment not (God knows it); but this I should say, that I do think from my very heart, that in your settling of the peace and liberties of this nation, which cries as loud upon you as ever nation did; for somewhat that may beget a consistence: otherwise the nation will fall to pieces; in that, as far as I can,* I am as ready to serve not as a king, but as a constable. For, truly, I have, as before God, thought it often, that I could not tell what my business was, nor what I was in the place I stood, save comparing it with a good constable, to keep the peace of the parish. And, truly, this hath been my content and satisfaction in the troubles that I have undergone, that yet you have peace.† Why now truly, (if I may advise,) I wish to God you may but be so happy as to keep peace, still. I wish to God we may have peace, (that do I;) but the fruits of righteousness are shown in meekness, a better thing than we are aware of.

I say, therefore, I do judge for myself, there is no such necessity of the thing, for the other names may do as well. I judge for myself, I must say a little. I think I have somewhat of conscience to answer as to this matter, why I cannot undertake this name. Truly I must needs go a little out of the way to come to my reasons, and you will be able to judge of them, when I have told you them, and I shall deal seriously, as before God. If you do not all of you, I am sure some of you do, and it behoves me to say, I know my calling from the first to this day. I was a person that, from my first employment, was suddenly preferred and lifted up from lesser trusts to greater; from my first being a Captain of a

* "Under the wood-side." See *supra*, pp. 466, 467.

† See *supra*, pp. 369, 370.

troop of horse ;* and I did labour (as well as I could) to discharge my trust, and God blessed me as it pleased him. And I did truly and plainly, and then in a way of foolish simplicity, (as it was judged by very great and wise men, and good men too,) desire to make of my instruments to help me in this work ; and I will deal plainly with you, I had a very worthy friend then, and he was a very noble person, and I know his memory was very grateful to you all. Mr. John Hampden.†

* See vol. iii. p. 166, note *.

† See *supra*, p. 325, note. "Some few there were," says Dr. Campbell, "who knew and understood Cromwell thoroughly, before his extraordinary talents were made known to the world, and in particular, his cousin Hampden, of which this was a remarkable instance :—

"When things ran high in the House of Commons, Mr. Hampden and the Lord Digby were coming down the Parliament-stairs and Cromwell just before them, who was known to the latter only by sight.

"'Pray,' said his Lordship, 'who is that man, for I see he is on our side, by his speaking so warmly to-day.' 'That sloven,' returned Mr. Hampden, 'whom you see before us, who hath no ornament in his speech, that sloven, I say, if we should ever come to a breach with the King, which, God forbid ! in such a case, I say, that sloven will be the greatest man in England.' " *Biog. Brit.* (1789,) iv. 514.

Mr. Noble appears to quote from Baxter, the opinion that John Hampden "was the oracle of Cromwell, who followed his advice whilst living, and revered his memory when dead." *House of Cromwell*, ii. 73. Hampden died ten years before Cromwell's outrage on the Parliament, which it is not easy to suppose that he would have advised or justified, though his son became a favourite courtier under the Protectorates. (See vol. iii. p. 277, note †.)

Mr. Noble further says of John Hampden, that "Baxter has beatified him." Baxter's representation, on this subject, is not uninteresting, and will bring no discredit on his memory :—

"In 1676, the Bishop of London's chaplain, preaching to the Lord Mayor and Aldermen, turned his sermon against Calvin and me. My charge was, that I had sent as bad men to heaven as some that be in hell, because, in my book called *the Saint's Rest*, I said, that I thought of heaven with the more pleasure, because I should there meet with Peter, Paul, Austin, Chrysostom," (here follow a host of theologians, to whom are added) "Brook, Pim, Hampden.

"The need which I perceived of taking away, from before such men, any thing which they might stumble at, had made me blot out the names of the Lord Brook, Pim, and Hampden, in all the impressions of the book, made since 1659 ; and yet this did not satisfy the man.

"But

At my first going out into this engagement, I saw their men were beaten at every hand. I did, indeed, see, and I desired him that he would make some additions to my Lord Essex's army, of some new regiments, and I told him I would be serviceable to him, in bringing such men in, as I thought had a spirit that would do something in the work. This is very true that I tell you; God knows I lie not. Your troops, said I, are most of them old, decayed serving men, and tapsters, and such kind of fellows; and, said I, their troops are gentlemen's sons, younger sons, and persons of quality. Do you think that the spirits of such base and mean fellows will be ever able to encounter gentlemen, that have honour, and courage, and resolution in them. Truly, I presented him in this manner conscientiously, and truly I did tell him, you must get men of a spirit, and take it not ill what I say, (I know you will not,) of a spirit that is likely to go on as far as gentlemen will go, or else I am sure you will be beaten still. I told him so, I did truly.

He was a wise and worthy person, and he did think that I talked a good notion, but an impracticable one. Truly, I told him, I could do somewhat in it. I did so, and truly I must needs say that to you, (impute it to what you please) I raised such men as had the fear of God before them, and made some conscience of what they did;* and from that day forward, I must say to you,

"But I must tell the reader, that I did it not, as changing my judgment of the persons well known to the world; of whom, Mr. John Hampden was one, whom friends and enemies acknowledged to be most eminent for prudence, piety, and peaceable counsels; having the most universal praise of any gentleman that I remember of that age. I remember a moderate, prudent, aged gentleman far from him, but acquainted with him, whom I have heard saying, 'that, if he might choose what person he would be, then in the world, he would be John Hampden.'" *Reliquiæ Baxterianæ*, (1696,) part iii. 177.

* See Lord Clarendon's admission; vol. iii. p. 187. *ad fin.* Bishop Burnet thus relates what he witnessed of the army left with Monk, when "Cromwell followed the King into England," in 1652.

"I remember well of three regiments coming to Aberdeen. There was an order, and discipline, and a face of gravity and piety among them that amazed all people. Most of them were Independents and Anabaptists. They were all gifted men, and preached as they were moved. But they never disturbed the public assemblies in the churches but once. They came and reproached the preacher for laying things to their charge that were false. I was then present. The debate grew very fierce. At

they were never beaten, and wherever they were engaged against the enemy, they beat continually. And truly, this is matter of praise to God, and it hath some instruction in it, to own men that are religious and godly, and so many of them as are peaceably, and honestly, and quietly disposed to live within government, as will be subject to those Gospel rules, of obeying magistrates, and living under authority. I reckon no godliness without this circle; but without this spirit, let it pretend what it will, it is diabolical, it is devilish, it is from diabolical spirits, from the height of Jathan's wickedness.* Why, truly, I need not say more than to apply it thus.

I will be bold to apply this to this purpose, because it is my all. I could say, as all the world says, and run headily upon any thing. I must tender this to you, as a thing that sways with my conscience, or else I were a knave and a deceiver. I tell you, there are such men in this nation, godly men of the same spirit, men that will not be beaten down with a worldly nor carnal spirit, while they keep their integrity. I deal plainly and faithfully with you. I cannot think that God would bless in undertaking of any thing that will justly and with cause grieve them, or that they will be troubled without cause. I must be a slave, if I should comply with any such humour. I say, they are honest men, and faithful men, and true to the great things of the Government, to wit, the liberty of the people, giving them that is due to them, and protecting this interest. I think, verily, God will bless you for it; but if that I know, (as, indeed, I do) that very generally good men do not swallow this title, (though really, it is no part of their goodness to be unwilling to submit to what a Parliament shall settle over them,) yet I must say, that it is my duty and my conscience to beg of you, that there may be no hard things put upon me; things I mean hard to them, that they cannot swallow.

If the nation may as well be provided for without these things that I have pointed to you, (as, according to my apprehension, it may,) I think truly it will be no sin in you. It will be to you as it was to David, in another case; no grief of heart, that you have a tenderness, (even, possibly, if it be their weakness), to the weakness of

last they drew their swords; but there was no hurt done. Yet Cromwell displaced the Governor, for not punishing this" *Own Time* (1724), i. 58.

* Referring, probably, to the *Fifth Monarchists*.

those that have integrity, and honesty, and uprightness, and are not carried away with the hurries that I see some are, who think that their virtue lies in despising authority, and opposing it. I think you will be the better able to root out of this nation that spirit and principle; and it is as desirable as any thing in this world, by complying with, indulging, and being patient to, the weakness and infirmities of men that have been faithful, and have bled all along in this cause and are faithful, and will oppose all oppositions (I am confident of it) to the things that are the fundamentals in your Government, in your settlement for civil and gospel liberties.

I confess, for it behoves me to deal plainly with you, I must confess, I would say, I hope I may be understood in this, for indeed I must be tender in what I say to such an audience as this is; I say, I would be understood, that in this argument I do not make parallel between men of a different mind and a Parliament, which shall have their desires. I know there is no comparison, nor can it be urged upon me, that my words have the least colour that way, because the Parliament seems to give liberty to me to say any thing to you; as that is a tender of my humble reasons, and judgment, and opinion to them. And if I think they are such, and will be such to them, and are faithful servants, and will be so to the Supreme Authority and the Legislative, wheresoever it is: if, I say, I should not tell you, knowing their minds to be so, I should not be faithful, if I should not tell you so, to the end you may report it to the Parliament.

I will say something for myself. For my own mind I do profess it, I am not a man scrupulous about words, or names, or such things. I am not: but as I have the word of God, and I hope I shall ever have, for the rule of my conscience, for my informations: so truly, men have been led in dark paths, through the providence and dispensation of God. Why, surely it is not to be objected to a man, for who can love to walk in the dark, but Providence doth often so dispose. And though a man may impute his own folly and blindness to Providence, sinfully, yet it must be at my peril. The case may be, that it is the Providence of God that doth lead men in darkness.

I must need say, I have had a great deal of experience of Providence, and though it is no rule without or against the word, yet it is a very good expositor of the word, in many cases. Truly, the Providence of God hath laid aside this title, providentially, *de facto*, and this not by sudden humour or passion, but it hath been by issue

of as great deliberation as ever was in a nation.* It hath been the issue of ten or twelve years' civil war, wherein much blood hath been shed. I will not dispute the justice of it, when it was done, nor need I now tell you what my opinion is in the case, were it *de novo* to be done. But if it be at all disputable, a man comes and finds that God in his severity hath not only eradicated a whole family, and thrust them out of the land, for reasons best known to himself, and hath made the issue and close of that to be the very eradication of a name or title which *de facto* is. It was not done by me, nor by them that tendered me the government, that now I act in. It was done by the Long Parliament. That was it, and God hath seemed, providentially, not only to strike at the family, but at the name, and, as I said before, *de facto* it is blotted out. It is a thing cast out by an Act of Parliament. It is a thing that hath been kept out to this day, and (as Jude saith in another case,) speaking of abominable sins that should be in the latter times, when he comes to exhort the saints, he tells them they should hate even the garments spotted with the flesh. I beseech you, think not that I bring this as an argument to prove any thing. God hath seemed so to deal with the persons, and with the family; but he blasted the title; and, you know, when a man comes (*d parte post*) to reflect, and see this is done, and laid in the dust, I can make no conclusion but this. They may have strong impressions upon such weak men as I am; and, perhaps, (if there be any such,) upon weaker men it will be

* This "issue" of the "great deliberation," was equally against any other "single person." See *supra*, p. 38, note *; *Parl. Hist.* (1755), xviii. 554. Lord Broghill, in the conference, April 16, not yet indulging the hope of Charles Stuart's return, but inviting the Protector to the kingship, as "the best Governor grafted upon the best Government," thus justly argues:

"Sir,—The very act which first cast out the kingly office did also cast out the Supreme Magistracy in a single person; yes, by the way of election or otherwise.

"So that if kingship be blasted, then Supreme Magistracy in a single person is so much, being both equally declared against at the same time and in the same Act of Parliament; and that since your Highness by your actings, have evinced you did not believe the Supreme Magistracy in a single person was blasted by Providence, you will permit us to believe that kingship is no more blasted than that the same authority and the same act have blemished (as far as it could) both alike." *Monarchy Asserted*, p. 72.

stronger. I will not seek to set up that which Providence hath destroyed, and laid in the dust, and I would not build *Jericho* again ; and this is somewhat to me, and to my judgment and conscience.

True, it is that that hath an awe upon my spirit, and I must confess, as the times are, they are very fickle, very uncertain. Nay, (God knows,) you had need have a great deal of faith, to strengthen you in your work, and all assistance. You had need to look at settlement. I would rather I were in my grave, than hinder you in any thing that may be for settlement for the nation. For the nation needs, and never needed it more ; and therefore, out of the love and honour I bear you, I am for ever bound to do, whatever becomes of me, I am ever bound to acknowledge you have dealt most honourably and worthily with me, and lovingly, and had respect for one that deserves nothing.* Indeed, out of the love and faithfulness I bear you, and out of the sense I have of the difficulty of your work, I would not have you lose any help that may serve you, that may stand in stead to you ; but would be a sacrifice, that there might be, (so long as God shall please to let this Parliament sit) a harmony, and better and good understanding between all of you. And (whatsoever any man thinks) it equally concerns one man as another, to go on to settlement, and where I meet with any that is of another mind, indeed, I could almost curse him in my heart. And therefore, to the end I may deal heartily and freely, I would have you lose nothing that may stand you in stead in this way. I would advise you, that if there be any of a froward and unmannerly, or womanish spirit, I would not have you lose them. I would not that you should lose any servant or friend, that may help in this work, that they should be offended by that, that signifies no more to me, than as I told you. That is, I do not think the thing necessary. I do not. I would not that you should lose a friend for it. If I could help you to many, and multiply myself into many, I would, to serve you in settlement, and therefore would not that any, especially any of these, that indeed, perhaps, are men that do think themselves engaged to continue to you, and to serve you, should be any ways disobliged from you.

The truth is, I did make that my conclusion to you at the first, when I told you what method I would speak to you in, I may say,

* See another opinion of his Highness's desert, *supra*, p. 303 ; vol. iii. p. 56, note.

that I cannot with conveniency to myself, nor good to this service, that I wish so well to, speak out all my arguments in order to safety, and in order in tendency to an effectual carrying on of this work. I say, I do not think it fit to use all the thoughts I have in my mind, as to that point of safety; but I shall pray to God Almighty, that he would direct you to do what is according to his will, and this is that poor account I am able to give of myself in this thing.*

No. IV.

His Highness's Speech to the Parliament in the Banqueting House at Whitehall, May 8, 1657.

Mr. Speaker,

I came hither to answer that, that was in your last paper to your Committee you sent to me, which was in relation to the desires which were offered to me by the House, in that they called their Petition. I confess, that business hath put the House, the Parliament, to a great deal of trouble, and spent much time. I am very sorry that it hath cost me some, and some thoughts; and because I have been the unhappy occasion of the expense of so much time, I shall spend little of it now.

I have, the best I can, resolved the whole business in my thoughts, and I have said so much already in testimony of the whole, that I think I shall not need to repeat any thing that I have said. I think it is a Government that, as to the aim of it, seeks much a settling the nation on a good foot, in relation to civil rights and liberties, which are the rights of the nation, and I hope I shall never be found to be of them that shall go about to rob the nation of those rights; but to serve them, what I can, to the attaining of them. It hath also exceedingly well provided for the safety and security of honest men, in that great, natural, and religious liberty, which is liberty of conscience. These are great fundamentals, and I must bear my testimony to them, (as I have and shall do still so long as God lets me live in this world,) that the intentions of the things are very honourable and honest, and the product worthy of a Parliament. I have only had the unhappiness, both in my conferences with your Committees, and in the best thoughts I could take to myself, not to be convicted of the neces-

* *Monarchy Asserted*, pp. 30—44.

sity of that thing, that hath been so often insisted upon by you, to wit, the Title of *King*, as in itself so necessary, as it seems to be apprehended by yourselves. And I do, with all honour and respect to the judgement of the Parliament, testify that (*cæteris paribus*) no private judgement is to lie in the balance with the judgement of a Parliament; but in things that respect particular persons: every man that is to give an account to God of his actions, he must in some measure be able to prove his own work, to have an approbation in his own conscience of that he is to do, or forbear. And, whilst you are granting others' liberties, surely you will not deny me this; it being not only a liberty, but a duty (and such a duty as I cannot, without sinning, forbear) to examine my own heart, and thoughts, and judgement, in every work which I am to set mine hand to, or to appear in, or for.

I must confess, therefore, that, though I do acknowledge all the other, yet I must be a little confident in this, that what with the circumstances that accompany human actions, whether they be circumstances of time, or persons, whether circumstances that relate to the whole, or private or particular circumstances, that compass any person that is to render an account of his own actions; I have truly thought, and do still think, that if I should (at the best) do any thing on this account to answer your expectation, it would be, at the best, doubtingly. And, certainly, what is so is not of faith. Whatsoever is not of faith is sin to him that doth it, whether it be with relation to the substance of the action, about which the consideration is conversant, or whether to circumstances about it, which make all think indifferent actions good or evil to him that doth it.

I, lying under this consideration, think it my duty, only I could have wished I had done it sooner, for the sake of the House, who have laid so infinite obligations on me, I wish I had done it sooner for your sake, for saving time and trouble; and indeed for the Committee's sake, to whom I must acknowledge, publicly, I have been unseasonably troublesome, I say, I could have wished I had given it sooner. But, truly, this is my answer, that although I think the government doth consist of very excellent parts in all, but in that one thing, the title, as to me, I should not be an honest man, if I should not tell you, that I cannot accept of the government, nor undertake the trouble or charge of it, which I have a little more experimented than every man; what troubles, and difficulties do befall men under such trusts, and in such undertakings.

I say, I am persuaded to return this answer to you, that I cannot undertake this Government with the title of a *King*, and that is mine answer to this great and weighty business.*

No. V.

(*Supra*, p. 125.)

His Highness's Speech, giving his consent unto the Petition and Advice.

Mr. Speaker,

I desire to offer a word or two unto you, which shall be but a word.

I did well bethink myself, before I came hither this day, that I came not as to a triumph; but, with the most serious thoughts that ever I had in all my life, to undertake one of the greatest tasks that ever was laid upon the back of a human creature. And I make no question but you will, and so will all men, readily agree with me, that without the support of the Almighty, I shall necessarily sink under the burden of it; not only with shame and reproach to myself, but (with that that is more a thousand times, and in comparison of which, I and my family are not worthy to be mentioned,) with the loss and prejudice of these three nations.

And that being so, I must ask your help, and the help of all those that fear God; that, by their prayers, I may receive assistance from the hand of God. His presence going along, will enable me to the discharge of so great a duty and trust as this is, and nothing else can.

Howbeit, I have some other things to desire of you, I mean of the Parliament, that seeing this is but, as it were, an introduction to the carrying on of the government of these nations; and forasmuch as there are many things which cannot be supplied, for enabling me to the carrying on of this work, without your help and assistance, I think it my duty to ask your help in them. Not that I doubted; for I believe the same spirit that hath led you to this, will easily suggest the rest to you.

The truth is, and I can say in the presence of God, that nothing would have induced me to have undertaken this insupportable burden to flesh and blood, had it not been, that I have seen in this Parliament all along, a care of doing all those things that might truly and really answer the ends that we have been engaged

* *Monarchy Asserted*, pp. 111, 112.

for. You have satisfied me of your forwardness and readiness therein fully already.

I thought it my duty, when your Committee, which you were pleased to send to me, to give the grounds and reasons of your proceedings, to help to inform my conscience and judgment; I was then bold to offer to them several considerations, which were received by them, and have been presented to you. In answer to which the Committee did bring me several resolves of yours, which I have by me. I think these are not yet made so authentic and authoritative, as was desired. And, therefore, though I cannot doubt it, yet I thought it my duty to ask it of you, that there may be a perfecting of those things.

Indeed, as I said before, I have my witness in the sight of God, that nothing would have been an argument to me, (howsoever desirable great places seem to be to other men; I say, nothing would have been an argument to me) to have undertaken this; but, as I said before, I saw such things determined by you, as make clearly for the liberties of the nations, and for the liberty and interest and preservation of all such as fear God; of all that fear God under various forms; and, if God make not these nations thankful to you for your care therein, it will fall as fire on their heads. And, therefore, I say, that hath been one main encouragement.

I confess, there are other things that tend to reformation, to the discountenancing of vice, to the encouragement of good men and virtue, and the completing of those things, also, concerning some of which you have not yet resolved any thing; save to let me know, by your Committee, that you would not be wanting in any thing for the good of these nations. Nor do I speak it, as in the least doubting it; but I do earnestly and heartily desire, to the end God may crown your work, and bless you and this government, that, in your own time, and with what speed you judge fit, these things may be provided for.*

* *Journals; Parl. Hist.* (1760), xxi. 142—144.

During this month of May, an envoy had been sent from the Queen of Sweden. Some of the Council suggested, that this messenger being an Italian, (who were skilful in the art of poisoning,) might bring poison with his letters to the danger of his Highness.

"I said," adds *Whitlock*, "that if I were by, when the gentleman delivered his letter, I would first receive the letter, and hazard the danger of being poisoned by it." At which the Protector laughed, and appointed a day for the gentleman's audience. *Memorials*, (1732,) p. 666.

No. VI.

(Supra, p. 311, 425.)

Procession, with Ceremony of the Investiture and Installation of his Highness Oliver Cromwell, as by the Parliament appointed to be performed in Westminster-hall, on June 26, 1657, written by me Edmund Prestwick, of the City of London, an eye and ear-witness to all that passed on this Glorious Occasion. Now set forth by me John Prestwick, Esq.

IN Westminster-hall, at the upper or south end thereof, there was built an ascent, whereon was placed the chair of Scotland,* brought for this purpose out of Westminster-abbey, and here set under a prince-like canopy of state. Before his Highness, and below him, was set a table covered with pink-coloured velvet of Genoa, fringed with fringe of gold. On this table, besides the Bible, sword, and sceptre, of the Commonwealth, were pens, ink, paper, sand, wax, &c. &c.

Before this table, on a chair, sat Sir Thomas Widdrington, the Speaker to his Highness and the Parliament. At some distance

* *Buchanan*, relating the atrocious invasion of Scotland by Edw. I. says, "Lapidem marmoreum rudem, in quo fatum regni contineri vulgo persuasum erat, Londinum misit." *Historia*, (1762,) p. 207. (He sent to London the rude marble in which the fate of the kingdom was involved, according to the vulgar persuasion.)

What follows, displays yet further the politic barbarism of a conqueror: "Neque quidquam omnino reliquit, quod spiritus generosus aut sui memoria ad pristinae fortunæ recordationem excitare, aut ad veram animi magnitudinem erudire, et excolere possit." (Neither did he spare any thing, the remembrance of which might excite generous spirits to regret their ancient state and fortune, and indeed which could inspire any mental greatness.)

"The marble chair is a timber chair, with a seat of unpolished marble, wherein the kings did sit at their coronation, having this inscription engraven.

"Ni fallat fatum, Scoti quocunque locatum,
Invenient lapidem, regnare tenentur ibidem." *Ibid.*

The inscription has been thus paraphrased:

"The Scottish kings, so sing the weirds of Scone,
Must reign, where'er they find this fatal stone;
'Tis the Palladium of the realm and throne."

were seats built scaffold-wise, like a *theatrum*, where, on both sides, sat the members of his Highness's Parliament, and below were places for the Aldermen of London, and the like.

After all things were thus ordered, the Protector came forth out of the Council-room adjoining to the Lords' House, and in the order following proceeded into the Hall.

First went his Highness's gentlemen, two and two.

A Herald.

Aldermen of London, two and two.

A Herald.

Edmund Prideux, his Highness's Attorney-general.

The Judges following of both Benches.

John Glyn, Lord Chief-justice.

Peter Warburton and Richard Nudigate.

Justices of the Upper Bench.

Barons of his Highness's Exchequer.

Robert Nicholas.

John Parker.

Roger Hill.

Norroy King at Arms.

Commissioners of the Treasury.

Commissioners of the Great Seal of the Commonwealth,
and their officers, *viz.*

Commissioner Nathaniel Lord Fiennes, carrying the Great Seal.

Commissioner John Lord Lisle.

William Lenthal, Master of the Rolls.

Officers attending, *viz.*

Henry Middleton, Serjeant at Arms.

Mr. Brown and Mr. Dove.

Garter King at Arms.

Before the Protector came, first,

Robert Earl of Warwick, with the Sword of the Commonwealth, bare-headed, on the right-hand ; and on the left, the Lord Mayor, Tichborn, carrying the sword of the City of London, bare-headed.

His Highness, OLIVER CROMWELL,

richly dressed, habited with a costly mantle of estate, lined with ermines, and girt with a sword of great value ; his Highness's train supported by three Generals, bare-headed, and armed with drawn swords.

Close to his Highness followed the Members or Lords of the other House, i. e. House of Lords, in order, two and two.

In like manner, in order, two and two, were the Members of the Parliament, as knights of the counties, citizens of the cities, and burgesses of the boroughs and towns, and Barons of the Cinque Ports, of the Commonwealth of England, Scotland, and Ireland; of which first came those of England, the county of Middlesex, and the northern counties leading the way; as Yorkshire, Lancashire, Northumberland, and so in like manner.

Besides these, were many persons of distinction, and no small number of Scotch and Irish nobles.

Installation of his Highness.

THE Protector, with loud acclamation, was enthroned, being seated in the chair of state: on the left hand thereof stood the Lord Mayor, Tichborn, and the Dutch Ambassador; the French Ambassador, and Robert Earl of Warwick on the right.

Behind the Protector stood his son, Lord Richard Cromwell, Charles Lord Fleetwood, Lieutenant-general of the army, John Lord Cleypole, Master of the Horse to his Highness: and the Privy Council, of whom, as of the nobility, were the Earl of Manchester, Lord Wharton, and Lord Mulgrave, the rest being very much their inferiors. Upon a lower descent stood the Lord Viscount Lisle, Lords Montague and Whitlock, with drawn swords.

The heralds, in the name of his Highness and the Commonwealth, commanding silence; then the Speaker, (Sir Thomas Widdrington,) in the name of the Parliament, presented to his Highness, Oliver Cromwell, a rich and costly robe of purple velvet, lined with ermines; a Bible, ornamented with bosses and clasps, richly gilt; a rich and costly sword; and a sceptre of massy gold. At the delivery of these things, the Speaker made a short comment upon them, and on the ceremonies thereof, which he addressed to the Protector, dividing them into four parts, viz.

“First, the Robe of Purple; this is an emblem of magistracy, and imports righteousness and justice. When you have put on this vestment, I may say you are a gown-man. This robe is of a mixed colour, to show the mixture of justice and mercy. Indeed, a magistrate must have two hands, *plectentem et amplectentem*, to cherish and to punish.

“Second, the Bible, is a book that contains the Holy Scriptures,

in which you have the happiness to be well versed. This Book of Life consists of two Testaments, the Old and New. The first shows *Christum velatum*; the second, *Christum revelatum*; Christ veiled and revealed. It is a book of books, and doth contain both precepts and examples for good government.

"Third, here is a Scepter, not unlike a staff, for you to be a staff to the weak and poor. It is of ancient use in this kind. It is said in Scripture, that 'the * sceptre shall not depart from Judah, nor a law-giver from between his feet, until Shilo come, and unto him shall the gathering of the people be'!!! It was of the like use in other kingdoms. Homer, the Greek poet, calls kings and princes, scepter-bearers.

"Fourth, the last is a Sword, not a military but a civil sword. It is a sword rather of defence than offence; not to defend yourself only, but your people also. If I might presume to fix a motto upon this sword, as the valiant Lord Talbot had upon his, it should be thus, *Ego sum Domini Protectoris, ad protegendum Populum meum*; I am the Lord Protector's, to protect my people."

This comment or speech being ended, the Speaker, Sir Thomas Widdrington, took the Bible, and gave the Protector his oath.†

After the administration of the oath, Mr. Manton, who for this purpose was appointed, made and delivered a prayer, wherein he recommended the Protector, Parliament, Council, the forces by land and sea, Government and people of the three nations, to the protection of God. Which being ended, the heralds, by loud sound of trumpet, proclaimed his Highness Oliver Cromwell, Protector of England, Scotland, and Ireland, and the dominions and territories thereunto belonging; commanding and requiring all persons to yield him due obedience. Then did the trumpets again sound, and the people with loud shouts cried, "Long live his Highness! long live his Highness! long live his Highness! huzza, huzza, huzza!"‡

Silence being commanded, and his Highness being respectfully saluted; he rose from the chair of estate, and descending, proceeded as follows, himself leading the way.

* *Genesis*, xlix. 10.

† See *supra*, pp. 287, 305, notes.

‡ The Protector, it is to be feared, could scarcely have experienced, at this moment, the poet's moral estimate of popular applause:

"One self-approving hour whole years outweighs,
Of gaping starers, and of loud huzzas.

The Protector ;

His train carried up by the Lord Sherard, Warwick's nephew, and Lord Roberts his eldest son.

After followed those who had before marched in the first of the procession ; the Protector and these returning in the same posture to the great gate or entrance of the hall, without which was a state coach ready to receive his

Highness.

The Protector being now seated in his coach ; with him sitting opposite at one end, was Robert Earl of Warwick, Lord Richard Cromwell his son, and Bulstrode Lord Whitlock, in one, and Philip Lord Viscount Lisle and Lord Montague in the other boot, with swords drawn ; and the Lord Cleypole, Master of the Horse, led a horse of honour in rich caparisons to Whitehall. The members, two and two, proceeded to the Parliament-house, where they prorogued their sitting to the twentieth of January.

At night were great proclaimings of joy and gladness, both in London, Westminster, and the surrounding towns, villages, and hamlets. On this occasion, for his Highness and the Parliament, were ensigns armorial of their power ; which signs or tokens of honour were commanded to be engraven and cut on seals for the sealing and stamping all public writings.

The great seal of the Commonwealth was a large circle, having thereon the Protector bare-headed, mounted on mareback, attired in a short coat or jacket of mail, over which was a military sash, placed over his right-shoulder and under his left-arm, tied behind ; pendant to his left-side, a large and broad sword, his right-hand grasping the head of a truncheon, which he holds before him, one end resting on the pommel of the saddle, his left-hand holding the bridle. Behind, on the space on the sinister side, and near the top, was a civic shield, with four quarters ; the first and fourth, with the Cross of St. George for England ; 2d, the Saltier or Cross of St. Andrew for Scotland ; and 3d, the Harp of King David for Ireland. On the margin of this side the seal, these words, *Olivarius. Dei. Gra. Reip. Angliæ. Scotiæ. et Hiberniæ. &c. Protector.* On the other side of the Broad Seal, the like arms as that for proclamations, as before described, only with this difference, the mantling lambequin'd with four doublings or folds : on the margin of this side, *Magnm. Sigillvm. Reiprb. Angliæ. Scotiæ, et Hiberniæ.**

* Prestwich's *Respublica*, (1787,) pp. 3—21.

No. VII.

[supra, p. 480.]

The Death, Funeral Order, and Procession, of His Highness the most Serene and most Illustrious Oliver Cromwell, late Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the Dominions and Territories thereunto belonging. The whole of this faithfully copied from the MS. of the Rev. John Prestwich, Fellow of All Soul's College, Oxford.

His Highness's first illness was at Hampton-Court, where he sickened of a bastard tertian, of which he grew very ill, insomuch, that after a week's time his disease began to show very desperate symptoms; whereupon he was removed to Whitehall, Westminster, near London, where his chaplains, and others of his family, kept private meetings and fastings for his recovery. Continuing in this condition, his Highness died on Friday, the third of September, at three of the clock in the afternoon, in the year of our Lord one thousand six hundred and fifty-eight. His body, presently after his expiration, was washed and laid out; and being opened, was embalmed, and wrapped in a sere cloth six double, and put into an inner sheet of lead, inclosed in an elegant coffin of the choicest wood. Owing to the disease he died of, which, by the by, appeared to be that of poison, his body, although thus bound up and laid in the coffin, swelled and bursted, from whence came such filth, that raised such a deadly and noisome stink, that it was found prudent to bury him immediately, which was done in as private a manner as possible. For the solemnization of the funeral, no less than the sum of sixty thousand pounds was allotted to defray the expence.

The corpse being thus quickly buried, by reason of the great stench thereof, a rich coffin of state was, on the 26th of September, about ten at night, privately removed from Whitehall, in a mourning hearse, attended by his domestic servants, to Somerset-house, in the Strand, where it remained in private for some days, till all things were prepared for public view; which being accomplished, the effigies of his Highness was, with great state and magnificence, exposed openly, multitudes daily crowding to see

this glorious, but mournful sight, which appeared in the order following:

FUNERAL ORDER.

First. The first room where the spectators entered, was wholly hung and covered with black ; and at the upper end of this room was placed a cloth and chair of state.

In the like manner of the first room were two others ; namely, the second and third, all having funeral escutcheons very thick upon the walls ; and guards of partizans were placed in each room for people to pass through.

The fourth room was completely hung with black velvet, the ceiling being of the same. Here lay the effigy of his Highness, with a large canopy of black velvet fringed, which hung over it. The effigy was of wax, fashioned like the Protector, and placed lying upon its back ; it was apparelled in a rich and costly suit of velvet, robed in a little robe of purple velvet, laced with a rich gold lace, furred with ermine. Upon the kirtle was a large robe of purple velvet, laced and furred as the former, with strings and tassels of gold. The kirtle was girt with a rich embroidered belt, wherein was a sword richly gilt, and hatched with gold, which hung by the side of this effigy. In the right-hand was a sceptre ; in the left, a globe. Upon his head was placed a purple velvet cap, furred with ermines suitable to the robes. Behind the head was placed a rich chair of tissued gold, whereon was placed an Imperial crown, which lay high, that the people might behold it.

BED OF STATE.

The bed of state whereon he lay, was covered with a large pall of black velvet, under which was a Holland sheet, borne up by six stools covered with cloth of gold. About the bed was placed a complete suit of arms ; and at the feet of the effigy stood his crest. This bed had fixed about it an ascent of two steps. A little from thence stood eight silver candlesticks, about five foot high, with white wax tapers standing in them, of three foot long. All these things were environed with rails and balusters, four square, covered with velvet ; at each corner whereof, there was erected an upright pillar ; which bore on their tops, lions and dragons, who held in their paws streamers crowned. On both sides of the bed were set up in sockets, four great standards of the

Protector's arms, with banners and banrols in war, painted upon taffety. About the bed stood men in mourning, holding in their hands black wands, and also standing bare-headed; and without the rails stood others, in like manner, whose office it was to receive people in, and turn them out again.

When this public wake or funeral had been kept for many weeks together, so that all strangers, &c. had seen it fully, then did the following change take place, and the whole scene become altered. The effigies being removed into another inner room, it was there set up, placed upon an ascent, under a cloth of state, being vested as it was before lying; only now his purple velvet was changed for a crown. In the same manner (as formerly) were men waiting upon him bare-headed. In this manner he continued until the twenty-third of November, which day was appointed to carry him with all solemnity to Westminster-Abbey.

THE FUNERAL PROCESSION.

This great funeral was performed with very great majesty, in this manner following. All things being in readiness, the waxen effigies of the Protector,* with a crown on his head, a sword by his side, a globe and sceptre in his hands, was taken down from his standings, and laid in an open chariot, covered all over with black velvet. The streets, from Somerset-House to Westminster-Abbey, were guarded by soldiers, placed without a railing, and clad in new red coats, with black buttons, with their ensigns wrapped in cypress. These made a lane, to keep off spectators from crowding the procession.†

THE Proceeding to the Funeral of the most noble and puissant Oliver, Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions and territories thereunto belonging, from Somerset-house in the Strand, unto the Abbey Church of Westminster, on Thursday, the 23d of November, 1658.

Colonel Biseoe, Knight Marshall, on horseback, with his black truncheon, tipped at both ends with gold.

Richard Gerald, Deputy Marshall, on horseback, with his black truncheon, tipped with silver.

* "This effigies was carved in wood, and after, covered or enamelled with wax; and that according to nature." *Prestwich*.

† *Prestwich's Respublica*, pp. 172—176.

Marshall's men, 13, on horseback, with the Knight Marshall.

Two conductors of the poor men of Westminster, with black staves. Poor men of Westminster, two and two, in mourning gowns and hoods.

Two conductors more, with black staves.

Poor men in gowns, two and two, in number 82.

Two conductors more, with black staves, in cloaks.

Servants to Gentlemen, Esquires, Knights, Baronets, two and two.

Two porters of the gate, with their staves.

Six drums, with the arms of Ireland.

Six trumpets, with banners of Ireland.

The standard of Ireland, borne by Colonel Le Hunt and Major Crooke, close mourners.

One in a cloak, to bear up the train of the standard.

A horse, covered with black cloth, adorned with plumes, and garnished with a cheveron, and escutcheons of the same, led by Mr. Tenant, equerry, in a cloak; and a groom in a coat, to attend and lead away the horse.

Inferior servants.

The household kitchen, 8; his Highness's kitchen, 7; hall-place, 5; scullery, 1.

Door-keepers. James's Park. Committee of the Army. Committee of the Admiralty. The Compting-house. Under-keepers of Parks, 2; watermen, 28; Richard Nutt, Master of the Barge; fire-makers, 5; pastry, 2; larder, 2; pantry, 1; buttery, 5; great beer-cellar, 1; wine-cellar, 1; privy cellar, 2; bakehouse, 4; porters, 2; ale-brewers; cooper; under-grooms of the chamber, 5; inferior waiters at the cofferer's table, 2; inferior waiters at the Comptroller's table, 3.

Three drums, with escutcheons of the arms of Scotland.

Three trumpets, with banners of the same.

The Standard of Scotland, borne by Major Dawboroon and Major Babington. Assistant close mourners.

One in a cloak, to bear up the train of the Standard.

A horse, covered with black cloth, adorned with plumes, and garnished with a cheveron, and escutcheons of the same, led by Mr. Bergawny, an equerry, in a cloak, and a groom in a coat, to attend, &c.

Inferior officers of the Lord Mayor, 70.

Marshal's men, 6.

Servants relating to the Surveyor's Office, 12.

Servants in his Highness's wardrobe, 4.

Three drums, with escutcheons of the standard of the Dragon.

Three trumpets, with banners of the same.

The Standard of the Dragon, borne by Colonel Goodrick; and
Major Cambridge, assistant. Close mourners.

One in a cloak, to bear the train of the standard.

A horse, covered with black cloth, adorned with plumes, and
garnished with a cheveron, and escutcheons of the same, led by
Mr. Wilcocks; an equerry, in a cloak, and a groom in a coat, to
attend, &c.

Officers of better sort. Scullery, 3; larder, 1; hall-place, 2;
deputy-sewer, 1; kitchen, 1; slaughterhouse, 1; spicery, 1; cel-
lar, 1; ale-brewers, 2; falconers, 2; huntsman; key-keeper; gar-
deners, 3; park-keepers, 8; bird-keeper; chapel-keepers, 4.

Messengers of the Committee of the Army, 4; of the Committee
of the Admiralty, 2.

Keepers of the Council Chamber and Privy lodgings, 5; Messen-
gers of the Council Chamber, 15.

Serjeant Dendy's men, 3; Grooms of the Chamber, 7; waiters
on the cofferer's table, 2; chafe-wax and sealer of the Chancery, 2;
tally-cutter; usher of the hall; usher of the council-chamber;
butler to the comptroller.

Household kitchen, 3 cooks; his Highness's kitchen, 1 cook;
gunsmith, shoemaker, hatter, tailor, upholsterer, measurers of
cloth, 3; master-carpenter, master-joiner, master-carver, master-
mason.

Three drums, with escutcheons of the standard of England.

Three trumpets, with banners of the same.

The Standard of the Lion of England, borne by Major Creed and
Major Grove; close mourners.

One in a cloak, to bear up the train of the Standard.

A horse, covered with black cloth, adorned with plumes, gar-
nished with a cheveron, and escutcheons of the same, led by Mr.
Wallen, equerry, in a cloak, and a groom in a coat, to attend, &c.

Gentlemen, attendants on public ministers.

Barons', Viscounts', Earls', servants.

Gentlemen, attendants upon Ambassadors.

Clerks in the Surveyor's office, 2; the wardrobe, 2.

Under-clerks to the Commissioners of the Admiralty, 2.

Clerk of the accounts of the army.

Clerk for the affairs of the Ordnance.

Clerk of the Commissioners of the Navy.

Clerk to the Committee of the Army.

Mr. Malin's Clerks, 2.

Clerks, under the Clerks of the Council, 10.

Cash-keeper.

Printers, Mr. Henry Hill, Mr. John Field.

Gentlemen, that wait at the Comptroller's table.

Officers of the Lord Mayor, in gowns.

Young men, 6; Yeomen of the water-side, 4; Serjeants of the chamber, 3; carvers, 3; Esquires, belonging to the Lord Mayor, 4; water-bailif; common crier; common hunt; sword-bearer.

Three drums, with escutcheons of the Guidon.

Three trumpets, with banners of the same.

The Guidon, borne by Major Knight and Sir John Blackamore.

A horse, covered with black velvet, adorned with plumes, and garnished with a cheveron, and escutcheons of the same, led by Mr. Bagg and Mr. Nelson, two equeuries, in cloaks, and one groom in a coat, to attend, &c.

The poor knights of Windsor,* Mr. Richard Pratt, Captain Fanshaw, Cornet Stephens, Captain Beale, Lieutenant Parker, Cornet Olmer, Lieutenant Mayns, Major Wallinger, Lieutenant Bankes, Mr. Groavener, Captain Roe, Colonel Herbert, Mr. Day, Captain Cooper, Major Leventhorp, Sir David Hatfield, Captain Burges, Mr. Cary, Colonel Whitchcott.

Two lads brought up to music.

Musicians. Mr. John Rogers, Mr. Thomas Mallard, Mr. William Howe, Mr. David Mell, Mr. Thomas Blagrove, Mr. William Gregory, Mr. Richard Hudson, Mr. Hinckston, Master of the Music.

Apothecaries. Mr. Webb, Mr. Phelps, Mr. William Baghurst.

Chirurgeons. Mr. Fothergail, Mr. Trapham, Mr. Harris.

Her Highness's butler.

His Highness's butler.

Pantry, 2. Great Beer Cellar, 1. Privy Cellar, 1. Scullery, 1. Woodyard, 2. Pastry, 2. Caterer, 1. Bakehouse, 2. Larder, 3. Slaughter-house, 1.

* See vol. ii. p. 61, note †.

Three drums, with escutcheons of the White Lion.

Three trumpets, with banners of the same.

The Banner of the Lion, borne by Colonel Pretty and Colonel Gibbon.

A horse, covered with black velvet, adorned with plumes, and garnished with a cheveron and escutcheons of the same, led by two equerries in cloaks, and a groom in a coat, to attend, &c.

Surveyor of Westminster Abbey.

Head Bailiff of Westminster, Mr. Jenkin.

Merchant for timber to his Highness.

Clerk of the surveys.

Assistant to the keeper of the wardrobe.

Mewes-keeper.

Clerks of the stables, the aviary, the spicery, wine-cellar.

Purveyor of wine.

Clerks of the household kitchen. His Highness's kitchen, 2.

Master of Westminster School, Mr. Busby.*

Usher of the Exchequer, Mr. Bowyer.

Deputy Chamberlains of the Exchequer.

Mr. Edward Falconbridge and Mr. Scipio Le Squire.

Clerk for approbation of Ministers, Mr. John Nye, Jun.

Solicitor of the Admiralty, Mr. Dorislaus.

Solicitor of the Treasury, Mr. William Swan.

Secretary of the Army, Captain Kingdom.

Secretary to the General at sea, Mr. Richard Creed.

Secretary to the Commissioners of the Admiralty, Mr. Blackburne.

Marshall of the Admiralty, Solomon Smith.

His Highness's Proctor in the Admiralty Court, Mr. David Bud.

Secretary to the Lords Commissioners of the Treasury, Mr. Sherwin.

Secretary to the Lords Keepers, Mr. Dove.

Register of the Admiralty, Mr. Rushworth.

Masters Shipwrights, Mr. John Taylor, Mr. Christopher Pett, Mr. Tippet.

Masters' Attendants, Mr. Thomas Scott, Mr. Charles Thorogood

Mr. William Badley, Mr. Thomas Arkonstall.

Officers of the Ordnance, Mr. Billers, Major Browne, Mr. Lewis Audley, Mr. John Faulkner, Mr. Wollaston, Mr. Elias Palmer.

* See vol. iv. p. 243, note.

Officers of the Mint. Mr. Thomas Symond, chief graver; Mr. James Hoar, clerk for his Highness; Mr. John Reynolds, under assay master; Mr. Thomas Birch, weigher and teller; Mr. Richard Pitt, surveyor and clerk of the irons; Mr. Samuel Bartlett, assay master; Mr. Thomas Barnardiston, comptroller; Dr. Aaron Gurdon, master of the Mint.

Clerk of the papers, Mr. Ambrose Randolph.

Surveyor of the works, Mr. Embree.

Keeper of the wardrobe at Whitehall, Mr. Clement Kinnersley.

The Post-house, Mr. Clarke.

Tellers of the Exchequer, Mr. Nicholas Bragg, Mr. George Downing, Mr. Christopher Lyster, Mr. John Stone.

Auditors of the revenue of his Highness's Exchequer, Mr. William Hill, Mr. Augustin Wingfield,* Mr. Henry Broad, Mr. John Brokett, Mr. John Edwards, Mr. Richard Sadler.

Auditor of the inpress, Mr. Bartholomew Beale.

Counsel attending the Lords Commissioners of the Treasury, Mr. Brereton, Mr. Manby.

Three drums, with escutcheons of the arms of the Union.

Three trumpets, with banners of the same.

The banner of Union, borne by Colonel Grosvenor and Colonel Ashfield.

A horse, covered with black velvet, adorned with plumes, and garnished with a cheveron and escutcheons of the same, led by two equerries in cloaks, and a groom in a coat, to attend, &c.

Officers of the fleet, Captains Ming, Newburg, Nixon, Howard, Earning, Robert Sanders, Eustace Smith, Robert Blague, Whitehorne Whetstone, Tittman, Blague, Witheridge, Poole, John Copping, Lambert, Anthony Young, Harman, Clarke, Cuttavié. Judge Advocate Fowler, Sir Richard Stainer, Captain Stoaks.

Officers of the Army, Mr. Nathaniel Eldred, commissary of provisions in Scotland; Mr. Simon White, apothecary; Mr. Rossington, surgeon; Mr. Samuel Barron, physician in Scotland; Mr. Knight, commissary of ammunition; Mr. Thomas Margetts, deputy advocate; Mr. Malin, chief secretary to the army.

Captains of horse and foot. Captains Henry Creer, Henry Creer, Jun. Commissioners for regulation of the excise, Mr. Adam Bains, Mr. Price, Mr. Bockett, Mr. John Stone.

* See vol. iii. p. 381, *note*.

Committee of the navy, Mr. Henry Hatsell, Mr. George Paler, Mr. Peter Pett, Major Nathaniel Bourne, Mr. Richard Hutcheson, Mr. Wright, Mr. Willoughby, Major Robert Thomson.

Commissioners of the army, Mr. John Phillips, Mr. John Hildesley, Mr. Gervais Bennett, Mr. Richard Lucy.

Mr. Pierce, Lecturer of Margaret's.

Mr. Sangar, Minister of Martin's.

Ministers of Westminster, Mr. John Rowe, Mr. Seth Wood.

Commissioners for approbation of public preachers, Mr. Holbeach, Mr. John Turner, Mr. Daniel Dyke, Mr. Samuel Fairclough, Mr. John Tombes, Mr. Samuel Slater, Mr. William Greenhill, Mr. Joseph Caryl, Mr. William Jessey, Mr. George Griffith, Mr. Thomas Valentine, Mr. Walter Cradock, Mr. William Cooper, Mr. Thomas Manton, Mr. Phillip Nye, Mr. Thankfull Owen, Dr. Horton, Dr. Arrowsmith, Dr. Thomas Goodwin, Dr. Tuckney,

Dr. John Owen.

Chaplains at Whitehall, Mr. White, Mr. Sterry, Mr. Hooke, Mr. Howe, Mr. Lockyer, Mr. Peters.

Three drums, with escutcheons of the arms of Ireland.

Three trumpets, with banners of the same.

The banner of Ireland, borne by Colonel Clarke and Colonel Salmon.

A horse, covered with black velvet, adorned with plumes, and garnished with a cheveron and escutcheons of the same, led by two equerries, Mr. Thompson, Mr. Ireland, in cloaks, and a groom in a coat, to attend, &c.

Treasurer of the contingencies, Mr. Gualter Frost.

Council's solicitor, Mr. Beck.

Secretaries of the French and Latin tongues, Mr. Dradon, Mr. Marvel, Mr. Sterry, Mr. John Milton, Mr. Hartlibbe, Sen.

Clerks of the signet, Mr. Samuel Moreland, Mr. James Nutley.

Clerks of the Privy-seal, Mr. Richard Whitehead, Mr. Miles Fleetwood.

Clerk of the Council, Mr. Jessop.

Clerk of the House of Commons, Mr. Smith.

Clerk of the House of Lords, Mr. Scobell.

Clerk of the Commonwealth, formerly Clerk of the Crown, Mr. Nathaniel Taylor.

His Highness's gentlemen,

Majors. John Chamberlain, William Farley, Nathaniel Cadwell,

John Hill, Eaton, Robert Swallow, Holmes, Creed, John Pittman, Nicholas Andrews, John Grime, Peter Crisp, Abraham Holmes, Cranfield, Greenleaf, Elleatson.

Lieutenant-colonels, John Miller, Richard Mope, Henry Flower, William Stile, Francis Allen, Dennis Pepper, William Gough, John Pierson, John Needler, Stevenson, John Clawberry, Arthur Young, Clement Keen.

Adjutant-general for Scotland, Jeremiah Smith.

Adjutants-general for England, Captain John Melthorpe, Major George Sedasene,

Doctors of Physic, Dr. Clarke, Dr. Goddard, Dr. Prujean, Dr. Simcotts, Dr. Bates, Dr. Glisson, Dr. Bathurst.

Advocate-general for Ireland, Dr. Cartwright.

His Highness's advocate, Dr. Walter Walker.

Clerk comptroller, Mr. Ewer.

Clerk of the green cloth, Mr. Barrington.

Steward of the lands, Mr. Waterhouse.

Cofferer, Mr. Maidstone.

Head officers of the Army. Lieutenant-Colonel Elton, of foot, to the Lord General. Treasurers of the army, Captains Blackwell, Dean, Colonels Smith, Barry, Bridges, Rogers, William Mitchell, Fitch; Dr. William Staines, Commissary-general of Musters.

Chief officers of the Fleet. Rear-admiral Bourne, Vice-admiral Goodson.

Knights Bachelors.

Three drums, with escutcheons of the Arms of Scotland.

Three trumpets, with banners of the same.

The Banner of Scotland, borne by Lord Berry and Lord Cooper.

A horse, covered with black velvet, adorned with plumes, and garnished with a cheveron and escutcheons of the same, led by two equerries, in cloaks, and a groom in a coat, to attend, &c.

The Chief Officers and Aldermen of London. Solicitor, Auditor, Remembrancer, Comptroller, Town Clerk, Common-Serjeant, Chamberlain, Judge of the Sheriff's Court, Recorder, Sir Lislebone Long; Aldermen, 20.

Attorney-general of South Wales, Mr. Jones.*

Judges of South and North Wales. Mr. Corbett, Mr. Hagatt, Mr. Bulstrode, Mr. Foxwist, Mr. Hoskins, Serjeant Seys, Serjeant Barnard.

Masters of the Chancery, 9.

* See vol. iii. pp. 233—241.

Mr. Pell,* Mr. Bradshaw, Major-general Jephson.†

His Highness's learned Counsel. Attorney of the Duchy, Mr. Nicholas Lechmere; Solicitor-general, Sir William Ellis; Attorney-general, Sir Edmund Prideaux; His Highness's Serjeants, Serjeant Maynard, Serjeant Earle.

Judges of the Admiralty. Colonel Charles George Cock, Dr. Godolphin.

Masters of Requests. Mr. Francis Bacon, Mr. Nathaniel Bacon. Gentlemen of the Bed-chamber, Mr. Charles Harvey, Mr. Underwood.

Master of the Ceremonies. Sir Oliver Fleming.

Chief Justice of Chester. Lord Bradshaw.

Barons of the Exchequer. Richard Tomlins, John Parker, Roger Hill, Edmund Nicholas.

Judges of both Benches. Hugh Wyndham, Edward Atkins, Peter Warburton, Matthew Hale, Richard Newdigate.

Lord Chief Baron. Sir Thomas Widdrington.

Lord Mayor of London. Sir John Ireton.‡

* See vol. i. p. 385, *note* ||. Among the Pell papers are the following; the first printed, and a red seal, of the lion.

"You are desired to attend the funeral of the most serene and most renowned Oliver, late Lord Protector, from Somerset House, on Tuesday the 23d of November instant, at eight of the clock in the morning at the furthest, and to bring with you this ticket; and that, by Friday night next, you send to the Heralds' Office, near Paul's, the names of your servants that are to attend in mourning, without which they are not to be admitted, and also to take notice that no coaches are to pass on that day in the streets between Somerset House and Westminster.

"Mr. Clerk, Comptroller.

"I desire you to direct the delivery of nine yards, of black cloth, of twenty-four shillings per yard, and six yards, of fifteen shillings per yard, for John Pell, Esq.

"A. Barrington.

"Whitehall, at the Green Cloth, Sep. 27, 1651." *Lansdown MS.* 755. No. 438.

† See vol. ii. p. 141, *note*.

‡ Brother of the General. The Company of Clothworkers, of which he was a member, attended this procession. "The painting work" for their standards and banners cost 164*l.*, though "the worshipful Company found all the taffaty and fringe which was used." *Respublica*, pp. 199—203.

Four drums, with escutcheons of the banner of England.

Four trumpets, with banners of the same.

The banner of England, borne by Lords Tomlinson, and Hewson.

A horse, covered with black velvet, adorned with plumes, and garnished with a cheveron and escutcheons of the same, led by two equerries in cloaks, and a groom to attend, &c.

Relations. Lord Dunch,* Sir Robert Pye, jun., Thomas Bouchier, John Bouchier, Esquires, John Dunch, Esq., Captain Fox, Thomas Cromwell, Esq., Captain Whetstone, Mr. Phillip Loo, Mr. Edward Fleming, Mr. Edward Hooper, Mr. Edmund Phillips, Mr. Hampden, Mr. Thomas Cromwell, Mr. Hughes, Captain Hierome Ingoldsby, Captain Ingoldsby, Mr. John Whalley, Mr. Henry Whalley, Major Horseman.

Public ministers of foreign states, commonwealths, princes, and kings.

The Black Rod.

Colonel Willoughby, Gentlemen Usher of the House of Peers, in a cloak, with an usher on his right hand, bare-headed.

Mr. Secretary Thurloe, one of his Highness's Privy Council.

Peers.

William Lord Goffe, Edmund Lord Thomas, John Lord Hughson, John Lord Barkstead, Robert Lord Tichborne, Christopher Lord Packe, Archibald Lord Johnson, William Lord Roberts, Thomas Lord Honeywood, William Lord Lockhart, Alexander Lord Popham, William Lord Strickland, Richard Lord Onslow, Sir Arthur Haslerigge,† Phillip Lord Jones, Comptroller of his Highness's Household, Francis Lord Rouse, Phillip Lord Skippon, Charles Lord Wolseley, William Steel, Lord Chamberlain of Ireland, William Lord Lenthall, Master of the Rolls, John Lord Glynne, Chief Justice of the Upper Bench, George Monke, General in Scotland,† Edward Lord Montague, Lord John Disbrowe, Roger Lord Broghill, George Lord Eure, William Lord Viscount Say and Seale, Earl of Cassilis, Edward Earl of Manchester, Henry Lord Lawrence, President of the Council: all their trains borne.

* See vol. iii. p. 355, note.

† Not called Lords, probably, as neither being nobles by rank, nor having taken their seats in "the other house." Sir A. H. probably felt for his fellow-soldier, on this day, *de mortuis, nil nisi bonum*.

The Seal-Bearer, supported by a Gentleman Usher, bareheaded, and a Serjeant-at-Arms, Serjeant Middleton.

The Lords Commissioners of the Great Seal, John Lord Lisle, Nathaniel Lord Fiennes: trains borne.

Ambassadors of Foreign States, Princes, and Kings.

Six drums, with escutcheons of the Commonwealth of England, Scotland, and Ireland, &c.

Six trumpets, with banners of the same.

Serjeants-at-Arms, Birkhead, Dendy.

Rouge Dragon, Poursuivant-at-Arms.

The great banner, borne by John Lord Fiennes, Francis Lord Russel, George Lord Fleetwood, close mourners: their trains borne.

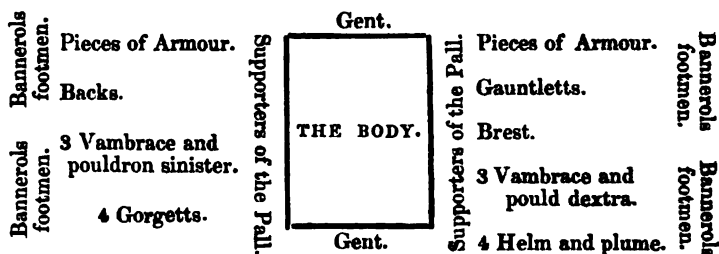
Cheval de Deuil,

or the Chief Horse of Mourning, covered with black velvet, adorned with plumes, and garnished with a cheveron of the same, led by two equerries, in cloaks, and a groom in a coat, to attend, &c.

Helm and crest, spurs, Lancaster. Gauntlet, York. Target, Somerset. Sword, Norroy King of Arms.

Coat of Arms. Clarencieux King of Arms, supported on each side by a Gentleman Usher, bareheaded.

The Lord Chamberlain, in close mourning, with his Staff: his train borne.



Garter Principal King of Arms; on each side a gentleman usher, bareheaded.

Charles Lord Fleetwood, chief mourner.*

* This procession being assimilated as much as possible to the ceremonies of royalty, the new Protector could not mourn in public, for his Father, and Henry Cromwell was still in Ireland. Thus the late Protector's son-in-law became chief mourner.

Philip Lord Viscount Lisle, Lord Viscount Faulconberg, supporters to the Chief Mourner, their trains borne. Chief Mourner's train borne by Luke Skippon, Fiennes, Samuel Disbrowe, James Disbrowe, Gilbert Pickering, Esquires.

Assistants to the Chief Mourner, fourteen in number.

Horse of Honour, ornamented in very rich trappings, embroidered on crimson velvet, and adorned with white, red, and yellow plumes, led by the Master of the Horse; Equerries and Grooms to attend.

The Guard of Halberdiers, 2 and 2.

Gentlemen Porters of the Tower, Warders of the Tower.*

The effigies in this manner being brought to the west gate of the Abbey Church of Westminster, it was taken from the chariot by ten gentlemen, who carried it to the east end of the church, and there placed with the wax effigies of the Protector, in a most magnificent structure, built in the same form as one before had been on the like occasion for King James, but much more stately and expensive, as the expenses attending the funeral amounted to upwards of sixty thousand pounds.

This funeral procession was the last ceremony of honour to the most serene and most illustrious OLIVER CROMWELL, Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the Dominions thereunto belonging; to whom less could not be performed, to the memory of him to whom posterity will pay (when Envy is laid asleep by Time) more honour than I am able to express. But, alas! how true are the words of the wise King, "Vanity of vanities, all is vanity;" seeing that, after all this funeral pomp and grandeur, his dead body was lastly, by the council of these men whom his power had raised to greatness; I say, by their council to CHARLES the Second, he was taken out of his grave, and hanged for a traitor. *O tempora! O mores!*

JOHN PRESTWICH, F.A.S.C. Oxford.†

* *Lansdowne MSS.* 95, No. 2. "By George Dethick, King-at-Arms." In the margin of this MS., are named the rooms of the palace prepared for the various classes in the procession.

† "Copied from the MS. of the Reverend John Prestwich, first of the College of Brazen Nose, and lastly, Fellow of All Souls College, Oxford; who, by his will, in 1680," gave "all his books fit for a public library, towards furnishing a library at Manchester." *Respublica*, pp. 178—180.

INSCRIPTION OVER THE BED OF STATE.

OLIVER CROMWELL,
 Lord Protector of England, Scotland, and Ireland;
 Born at Huntingdon,
 Of the name of Williams, of Glamorgan, and by
 King Henry VIII. changed into Cromwell;
 Was educated in Cambridge, afterwards of Lincoln's
 Inn.
 At the beginning of the wars, Captain of a Troop of
 Horse, raised at his own charge;
 And by the Parliament, made Commander-in-Chief.
 He reduced Ireland and South Wales,
 Overthrew Duke Hamilton's army, the Kirk's army;
 at Dunbar;
 Reduced all Scotland;
 Defeated Charles Stuart's army at Worcester.
 He had two sons,
 Lord Richard, Protector in his father's room,
 Lord Henry, now Lord Deputy of Ireland;
 And four daughters,
 Lady Bridget, first married Lord Ireton, afterwards,
 Lieutenant-general Fleetwood;
 Lady Elisabeth, married Lord Cleypole;
 Lady Mary, married Lord Viscount Fauconberg;
 Lady Frances, married the Honourable Robert Rich,
 Grand-child to the Right Honourable the Earl of Warwick.
 He was declared Lord Protector of England,
 Scotland, and Ireland, Dec. 16, 1653;
 Died September 3, 1658, after fourteen days' sickness, of
 An ague, with great assurance and serenity of mind,
 Peaceably in his bed.
 Natus April 15, 1599.
 Dunkirk, in Flanders, surrendered to him, June 20,
 1658.*

* *Parl. Hist.* xxi. 24.

No. VIII.

(Supra, p. 482.)

Oliver Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging : to all to whom these presents shall come, greeting,

Whereas it hath been represented unto us by our right trusty and right well-beloved counsellor, John Lambert, and our right trusty and right well-beloved General Montague, and our right trusty and well beloved Francis Rouse, Esq., a Committee of our Council (to whom the petitions of the Justices, Grand Jury, Gentlemen, and inhabitants of our city and county of Durham, county of Northumberland, and town and county of Newcastle-upon-Tyne, for the founding of a college at the city of Durham,* was referred by our said Council,) that the founding of a College at Durham, will be of great advantage to these counties, and to all the northern parts of this island, as well in reference to the promoting of the Gospel, as the religious and prudent education of young men there : and it having thereupon been ordered by us and our Council, (according to the opinion of the said Committee, in pursuance of the petitioners' desires,) that a College be erected and founded at Durham.

Know ye, therefore, that we, having taken the premises into our consideration, of our especial grace, certain knowledge, and mere motion have thought fit, to erect and found, and by these presents, for us and our successors, do erect and found a College of our said

* Among other requests, from "the grand jury, gentlemen, freeholders, and inhabitants of the county of Durham, at the assizes holden at Durham, August 12, 1650," is the following :—

"And whereas, there is indebted to the said county, the sum of 25,663*l.* 13*s.* 10*d.*, lent in the first expedition of the Scottish army into this nation, and secured to be repaid to the said county, by Act of this present Parliament, in the year 1641.

"That some lands may be set forth and allotted of the lands, late belonging to the late Bishops, and Dean, and Chapters, not yet sold, at the lowest rates the same are appointed to be sold, by any Act or Ordinance of Parliament ; so far as the said sum indebted, will extend, and to be granted and established for and towards the founding of a College of students at Durham, and that the late Dean's and Prebends' houses there, may be employed to that use, according to the former desires of the said county." See "Dr. Williams's MSS. Collections," in Dr. Grey's *Examination of Neal*, (1739,) *Appendix*, pp. 109, 110.

city of Durham, in our county of Durham, within the site of the College Houses, Cathedral Church, and Castle, in our said city of Durham, or some of them; to be and continue a College from time to time hereafter, for ever.

And that the said College shall consist of one Provost or Master, two Preachers or Senior Fellows, and twelve other Fellows; four of the said twelve fellows, to be Professors; four other of them to be Tutors; and other four of them to be Schoolmasters; and also twenty-four scholars, twelve Exhibitioners in the said College, and eighteen Scholars in the Free School, belonging to the said College. And shall for ever hereafter, be called by the name of the Master or Provost, Fellows and Scholars of the College in Durham, of the foundation of Oliver Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging; and by the same name shall have perpetual succession.

And to the end that the said College may be at present furnished and provided with fitting persons for this work and service, we do, for us and our successors, constitute and appoint our well-beloved Philip Hunton, M. A.* to be the first Provost or Master of the said College; and our well-beloved William Spinedge and Joseph Hill, M. A. to be the two first Preachers, or Senior Fellows of the said College; and our well-beloved Thomas Vaughan, M. A. John Kister, M. D., Robert Wood, M. A., Ezekiel Tong, D. D., John Peachil, M. A., Leonard Wastell, Richard Russell, M. A. John Richel, Nathaniel Vincent, M. A., William Corker, John Doughty, M. A., and William Sprigg, to be the first twelve other Fellows of the said College: whereof the said Thomas Vaughan, John Kister, Robert Wood, and John Peachil, shall be the first four Professors: and the said Ezekiel Tong, Richard Russell, John Richel, and John Doughty, shall be the first four Tutors of

* Rector of Sedgfield; ejected in 1662, from Westbury, Wilts. In 1643, he published a concise treatise "Concerning Monarchy," (a worthy precursor of *Stidney* and *Locke*;) of which there are later editions. This treatise, the University of Oxford "burnt in the School Quadrangle," in their burning year, 1683, the year after the author's death; as if not satisfied with Sir Robert Filmer's attempted refutation, in his "Anarchy of a Limited or Mixed Monarchy." See *Observations*, annexed to "The Freeholder's Grand Inquest," (1680,) pp. 237—292; *Athen. Oxon.* (1692,) ii. 532; Dr. Calamy's *Account*, (1713,) ii. 290, 754, 755; *Continuation*, (1727,) ii. 864, 865.

the said College: and the said Nathaniel Vincent, William Corker, William Sprigg, and Leonard Wastell, shall be the first four Schoolmasters of the said College.

And we do by these presents for us and our successors, (with the advice of our Council) of our like especial grace, certain knowledge, and mere motion, and for the endowment of the said College with some competent means for the maintenance thereof, and for the better advancement of learning and religion in those parts, give and grant unto the said Master and Provost, Fellows and Scholars of the said College in Durham, of the foundation of Oliver, Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, and their successors, all that the Cathedral Church and Church-yard, and College of Durham, aforesaid: and also all and singular messuages, and houses, and all orchards, gardens, courts, court-yards, curtilages, wastes, and waste grounds thereunto belonging, which are yet unsold, and which were lately belonging to the late Dean and Chapter of the said Cathedral Church of Durham: and the Free School there, and the School-house, and the houses for schoolmasters there, with all orchards, gardens, courts, court-yards, curtilages, wastes, and waste-grounds thereunto belonging, with their and every of their rights, members, precincts, privileges, hereditaments, and appurtenances in any wise unto any of the premises belonging, in as ample manner as the late Bishop, or Dean and Chapter of Durham, or the Trustees for the sale of the lands and possessions of the late Bishops, Deans, and Chapters, or any of them, have held and enjoyed the same: to have and to hold the said Cathedral Church and College of Durham, and also all and singular the aforesaid messuages and houses that are yet unsold, and that were lately belonging to the late Dean and Chapter of the said Cathedral Church of Durham, and the Free School there, and School Houses, and Houses for Schoolmasters there, with their and every of their rights, members, precincts, privileges, hereditaments, and appurtenances unto the said Master or Provost, Fellows and Scholars of the said College, and their successors for ever.*

* Then follows the grant of an annual revenue, amounting to 200*l.* for the support of the College, secured according to the customary forms of law; and thus particularized:—

“The yearly rent of 117*l.* 15*s.* 8*d.* issuing and payable out of the se-

And further, we do by these presents, for us and our successors, give and grant unto the said Master or Provost, Fellows and Scholars of the said College, and their successors, all manuscripts, library books, and other books, and mathematical instruments, and all other instruments whatsoever, late belonging or appertaining to the said Bishop, and Dean and Chapter of Durham, or either or any of them respectively, relating to the practice of any of the liberal sciences; and all our right, property, interest, claim, and demand of, in, and unto all and every the said MSS. books, and instruments: to have and to hold the said MSS. library books, and other books, and mathematical instruments, and other instruments aforesaid, unto the said Master or Provost, Fellows and Scholars of the said College, and their successors, as of our free gift.

And further, we do by these presents, for us and our successors, give and grant unto the said Master or Provost, Fellows and Scholars of the said College, and their successors, that it shall be, and may be lawful for them, from time to time, and at all times hereafter, to purchase, have, hold, and enjoy to them and their successors any lands, tenements, and hereditaments, rents or revenues, not exceeding the yearly value of six thousand pounds, and any goods or chattels whatsoever, of the gift, or to be purchased of us, or our successors, or any other person or persons whatsoever; the statute for not putting lands or tenements in mortmain, or any thing therein contained to the contrary thereof, in any wise notwithstanding.

And we will, and by these presents for us and our successors do ordain and appoint, that the said College by the name of the Master or Provost, Fellows and Scholars of the College of Dur-

veral manors of Gateside, *alias*, Gateshead, and Whickham, with their appurtenances, in the county of Durham.

"One yearly rent-charge of 500*l.* to be payable, issuing, and going out of the aforesaid several manors, and out of all houses, edifices, buildings, barns, stables, orchards, gardens, woods, underwoods, mines, quarries, mills, moors, marshes, waste-ground, waters, fishing, burrow-courts, profits and perquisites of courts, heath-grounds, lands, tenements, and hereditaments, with the aforesaid manors, or any of them.

"One other yearly rent of 282*l.* 4*s.* 4*d.* to be issuing and payable out of the rectories, impropriations, and parsonages impropriate, late belonging to the late Bishop, or Dean, or Chapter of Durham, or any of them respectively." *Exam. App.* pp. 113—116.

ham, of the foundation of Oliver Lord Protector of the Commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, and their successors, shall have power and authority to demise, lease, and grant their possessions and hereditaments aforesaid ; as other Colleges may lawfully do, and not otherwise : and to sue and implead, and to be sued and impleaded by the name aforesaid : and to do, perform, and execute all and every other lawful acts and things, good, necessary, and profitable for the said College, in as full and ample a manner to all intents and purposes and constructions as any other Collegiate corporation whatsoever may or can lawfully do, and not otherwise.

And we will, and by these presents for us and our successors, do farther grant unto the said Master or Provost, Fellows and Scholars of the said College, and their successors, that they shall and may have a common seal, for sealing such their demises and leases, and for the doing of all and every other thing and things touching the said corporation : which said common seal, the said Corporation shall have power to break, change, and new make, so often as their affairs shall require.

And we will, and by these presents for ourselves and successors, do grant and ordain, that they, the said Master or Provost, Senior Fellows, Fellows, Professors, Tutors, Schoolmasters, Scholars, Exhibitioners, and Students, Officers, servants, and members of the said College, and every of them, for the time being, shall be for ever ruled, governed, and ordered by, and be subject to such wholesome orders, ordinances, laws, statutes, rules, and government, as now are made and in force, or hereafter shall be made, ordained, constituted, and appointed by us and our successors, with the advice of our Council for the time being, or by such visitors as from time to time shall be, by us or our successors, with the advice of our Council for the time being, or by such visitors as from time to time, shall be by us or our successors, with the Advice of our Council, deputed and authorized thereunto.

And we have nominated, constituted, and appointed, and by these presents for us and our successors, with the advice of our Council, do nominate, constitute, and appoint our right trusty and right well-beloved Sir Thomas Widdrington, Knight Speaker of the Parliament of the Commonwealth of England, Scotland, and Ireland, and one of the Commissioners of our Treasury, and our right trusty and right well-beloved John Lambert, Major-general,

and Commander-in-Chief within our counties of York, Durham, Westmoreland, Cumberland, and Northumberland, and our right trusty and right well-beloved Walter Strickland, one of our Council, and our right trusty and well-beloved Algeenoon Earl of Northumberland,* Thomas Lord Fairfax, Baron of Cameron, William Lord Grey, of Werke, George Lord Eure, Philip Lord Wharton, Thomas Bellasis, Viscount Fawconberge, Major-general Charles Howard, Sir Henry Vane, Knight, Major-general Robert Lilburne, and our trusty and well-beloved Edmund Prideaux, Esq. our Attorney-general, William Ellis, Esq. our Solicitor-general, Sir Wilfrid Lawson, Knight, Sir Arthur Haslerigge, Bart., Sir George Vane, Knight, Colonel Charles Fairfax, Sir William Strickland, Bart., Sir John Bourcher, Knight, Sir Thomas Lyddell, Bart., Luke Robinson, Esq., Henry Ogle, Esq., Robert Midford, Esq., Richard Lilburn, Esq., William Fenwick, of Wallington Com. Northumberland, Esq., Christopher Lyster, Esq., Rowland Place, of Dirisdale, in the Bishoprick of Durham, Esq., Richard Beke, Esq., Walter Boothby, Merchant and Citizen of London, Esq., Luke Killingworth, of Northumberland, Esq., John Rushworth, Esq., Robert Stapleton, Esq., Philip Babington, of Northumberland, Esq., George Downing, Esq., Robert Cropley, Esq., Robert Fenwick, of Bedlington in Com. Northumberland, Esq., Colonel Francis Wrenn, Paul Hobson, of Seggerston-Hugh, Gentleman, Robert Hutton, of Houghton in the Bishoprick of Durham, Esq., John Bright, of Bridsworth, in the county of York, Esq., John Wastell, of Scorton, in the county of York, Esq., John Smithson, of Kipeling, in the county of York, Esq., Jeremiah Tolhurst, of the city of Carlile, Esq., Lieutenant-colonel John Mayrel, Adam Baynes, of Newstrop, in the county of York, Esq., Edward Fenwick, Esq., Gilbert Marshall, of Houghall, in the Bishoprick of Durham, Esq., Thomas Lilburn, of Ufferton, in the Bishoprick of Durham, Esq., Robert Ellison, of the town of Newcastle, Gentleman, William Briscoe, of Cumberland, Esq., John Archer, of Westmoreland, Esq., Thomas Bateman, of Westmoreland, Esq., Henry Horseley, of Northumberland, Esq., John Middleton, of Darlington, in the Bishopric of Durham, Gent., Timothy Tully, of Westmoreland, Gent., Thomas Ledgard, of Newcastle, Gent., Matthew Skirfield, Gent., Ralph Rymer, of Brafferton, in the county

* See vol. iv, p. 78, note †.

of York, Esq., Francis Lassels, of Stank, in the county of York, Esq., Thomas Harrison, Esq., Sheriff of York, Thomas Langhorn, of Perith, Gent., William Lister, Esq., Jeremiah Baines, Esq., Sir Christopher Pack, Knight and Alderman of the City of London, Stephen Estwick, Alderman of London, William Johnson, Alderman of Newcastle, Thomas Bonnet, Alderman of Newcastle, Anthony Smith, Alderman of Durham, Henry Rowell, Alderman of Durham, Thomas Craister, Alderman of Carlisle, Thomas Watson, Alderman of Berwick, and George Dawson, Alderman of Newcastle, Samuel Hammond, of Newcastle-upon-Tyne, Thomas Weld, of Gateside, in the Bishopric of Durham, Edward Bowles, of the city of York,* William Cole, of Newcastle-upon-Tyne, William Durand, of the same, Richard Gilpin, of Graystock, in the county of Westmoreland,† William Keys, of Stoickley, in the county of York, Thomas Trewren, of Ovingham Common, Northumberland, Richard Prideaux, of Newcastle-upon-Tyne, Henry Leaver, of Barnspeth, in the Bishopric of Durham, Ralph Tunstall, of Long Newton, in the Bishopric of Durham, Thomas Smallwood, of Batley, in the county of York, William Styles, of Leeds, in the county of York, John Milward and James Fisher, of Sheffield, in the county of York, Ministers of the Gospel, to be the first Visitors of the said College, and of the revenues and possessions thereunto belonging. And we do likewise by these presents, for us and our successors, will and appoint, that the said Major-general Howard, Richard Lilburne, of Tickley Pincherden, in the county of Durham, Major-general Robert Lilburne, Sir Thomas Liddel, of Ravensworth, in the county of Durham, Timothy Whittingham, of Holmside, in the county of Durham, Esq., the Mayor of Durham for the time being, Anthony Smith, Alderman of Durham, John Middleton, of Darlington, in the county of Durham,

* See vol. iii. p. 291, *note*.

† Ejected in 1662. Dr. Calamy has given an interesting account of this Clergyman, who had taken the degree of M.D.

Dr. Gilpin appears to have excelled in pulpit oratory, "without the use of notes. His memory, invention, great presence of mind, and natural fluency, made him able to speak well and gracefully, with ease and assurance. And that which completed all, it came from a serious mind." He also discovered his "contempt of the world, in refusing the Bishopric of Carlisle, as another of the family, Mr. Bernard Gilpin, consonant to their motto, *dictis, factisque, simplex*, had done before him." *Account*, (1713,) ii. 155, 157.

Gilbert Marshall, of Houghall, in the county of Durham, Samuel Hamond, of Newcastle-upon-Tyne, Minister of the Gospel, Henry Leaver, of Branspeth, in the county of Durham, and Thomas Trewren, of Ovingham, in the county of Northumberland, to be constant Visitors of the said College: and that the other Visitors before named, shall have, hold, and enjoy their places of Visitors of the said College, for two years, and no longer.

And the said Visitors for the time being, or any nine or more of them, (whereof five of the constant Visitors to be of the quorum,) calling from time to time to their assistance a civil lawyer, or public notary, shall have full power and authority, by virtue of these presents, to visit the said College and School, and from time to time, to order, reform, and redress disorders and abuses in and touching the government of the said College, and the School aforesaid; and further to censure, suspend, deprive, expel, or remove, for misgovernment or misdemeanours, the Master or Provost, Senior Fellows, Fellows, Professors, Tutors, Scholars, and Exhibitioners of the said College; and the Schoolmasters, Ushers, Exhibitioners, and Scholars of the said School of Durham, and other members, servants, and officers of the said College and School in Durham for the time being, according to the statutes, orders, and ordinances of the said College, and according to the statutes, wills, and testaments, or other dispositions of the founders and benefactors of the said College and School, hereafter to be made respectively: so that no visitation, act, or thing, in or touching the same, be had or done otherwise than with the consent or assent of six of the said nine Visitors, at least, assembled in the College Hall or School by them visited. And we will, that their sentence and statutes, order and orders, be entered or recorded by the said public notary, in a book to be kept by them, the said Visitors, for that purpose, and that the same shall be subscribed with the hands of them, or the greater part of the said nine Visitors, so met and consenting, as aforesaid; and that they, the said Visitors of the said College and School, for the time being, or any nine or more of them, shall from time to time have power, and are hereby authorised at any time or times hereafter, to elect and choose a new constant Visitor and Visitors, or any other Visitor or Visitors, so often and from time to time as any of the said Visitors shall happen to die, or to relinquish and leave their places, or be removed

therefrom; and that they the said Visitors, and the Master or Provost of the said College for the time being, or any of them, may give an oath to any person or persons touching and concerning the premises, so often as occasion shall require.

And our will is, and we do hereby further for us and our successors, grant and ordain, that when and as often as the said Visitors, or other person or persons, to whom the nomination, election, approbation, and admission of any of the aforesaid Visitors, Master or Provost, Senior Fellows, Fellows, Tutors, Scholars, or Exhibitioners of the said College, or any of them, or of the Register, Public Notary, or other officer or officers of the said College, doth or shall belong, according to the true intent and meaning of these presents, or of the statutes of the said College, by us or our authority already made, or hereafter to be made, do or shall neglect or omit to make election of fit persons to the said places of mastership, or other places or offices within the said College, during the space of three months, from the time of vacancy of any of the said places, that then and so often it shall and may be lawful for the Master or Provost, and Fellows of the said College for the time being, or the greater number of them, to elect into the said places, so being void by the space of three months as aforesaid, such person or persons as to them shall seem most meet, and best agreeing to the said statutes of the said College, to the end the said places so void, may be full: and to admit such person or persons by them so elected, into the said places respectively: which said person or persons so elected, shall enjoy the said place or places, and be invested with the profits, rights, and privileges thereof, as absolutely as if he or they had been chosen by the said Visitors, or electors, as aforesaid.

And further, we will, and by these presents for us and our successors, do grant and ordain, that if any difference, debate, or controversy, touching the premises, shall at any time hereafter arise between the said Visitors, and the Master or Provost, Fellows and Scholars of the said College, or any of them, that then upon complaint made to the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal of England, for the time being, they shall have full power and authority, by virtue of these presents, to hear the said complaints, and dissensions, and controversies, and to compose, decide, order, and determine the

same, as to them in their judgments and wisdom shall seem just and fit: and such order and determination of the same, as they shall set down in writing under their hands and seals, shall stand and be observed.

And our will is, and we do hereby further grant and ordain, for us and our successors, that the said Master or Provost, Senior Fellows, and Visitors of the said College for the time being, or any twelve or more of them, shall have power, and are hereby authorised, from time to time, to compose, set down, prescribe, and make such orders, rules, statutes, and ordinances, for the better ordering, government, and good rule of the said College, and of the Master or Provost, Senior Fellows, Fellows, Professors, Tutors, Scholars, Exhibitioners, and Students, of the same College, and for the ordering, government, and good rule of the Schoolmasters, Ushers, Exhibitioners, and Scholars of the said Free School, at Durham, as to them shall seem meet and convenient: so as the said statutes, ordinances, rules, and orders by them made, be not repugnant or contrary to the laws and statutes of this Commonwealth, nor to any statute, ordinance, or order, which hath been made, or hereafter shall be made by us and our successors, or by our Council, for the good government of the said College and School; nor to any clause or clauses of these presents, nor contrary to the last will or testament, or other settlements of any that shall be founders or benefactors of the said College or School.

And our will is, and we do by these presents, for us and our successors, further grant to them, the said Master or Provost, Fellows, and Scholars of the said College, and to their successors, that by virtue of these presents, they shall and may from time to time, set up, keep, and maintain, a printing-press and a rolling-press in the said College or city of Durham, by themselves or servants there, or any of their deputy or deputies; and to buy paper, iron, tin, letters, and all other things hereunto, or to any part of the printer's work, trade, or mystery, necessary and convenient; and to do every thing and things necessary to so profitable a work. Which said printing and rolling presses, shall be free and exonerated and discharged of and from all customs and impositions whatsoever, of, for, or concerning the same. And that the said Master or Provost, Fellows, and Scholars of the said

College, for the time being, and their successors, may from time to time, print or cause to be printed, Bibles of all or any kind of volumes, and may license other books to the press: saving unto all singular person and persons whatsoever, their several and respective rights and privileges, for printing Bibles and licensing books; it being our true intent and meaning, that nothing in these presents contained, shall any ways prejudice any such person or persons, but that they shall have and enjoy their said respective rights, as amply as they would or might have done, before the granting of these our letters patents; any thing herein contained, to the contrary notwithstanding. And that the said Master or Provost, and Senior Fellows of the said College, for the time being, or any two of them, shall from time to time have like power and liberty to license any work or works, book or books, to the press, as any licenser or licensers in the City of London, or elsewhere in our dominions have had, or might enjoy by virtue of any order, or ordinance of Parliament, or any order of our Council, or by any other power and authority from us derived and derivable, may, or ought to have, hold, or enjoy. And we will, that no printers, stationer or stationers, merchant or merchants, shall at any time hereafter imprint, or cause to be imprinted any work or works, book or books, taledoux or taledouxes, or to import, being elsewhere printed, any such formerly printed by the said College, or their said deputies, on the penalty provided for such as contemn our authority, and the authority of our Council.

And our will is, and we do further by these presents, for us and our successors, give and grant unto the said Master or Provost, Fellows and Scholars of the said College, and their successors, that they nor any of them, nor any of the Professors, Schoolmasters, Students, Scholars, or Exhibitioners of the said College, nor any of their constant or ordinary officers, servants, or ministers, or any of them so long as they continue in any office, place, or service, in or belonging to them the said Master, or Provost, Fellows, and Scholars of the said College, or their successors, shall at any time hereafter be compelled by any Justices of the Peace, constables, or any other officers, to do, perform, or execute in their own proper persons, or any of their proper persons, or any person or persons, any watching, warding, or mustering, or any hue and cry; or be elected or appointed to any office of mayor, sheriff, bailiff,

constable, tything-man, burs-holder, minister, steward, serjeant, marshall, churchwarden, sidesman, overseer of the poor, surveyor of the highways, scavenger, or any other such like office whatsoever, or to make any suit at any sheriff's hundred or lasts of hundreds; or to serve on any jury or juries, or grand inquests.

And our will is, and we do further by these presents, of our especial grace and bounty, and of our mere motion and certain knowledge, for us and our successors, give and grant unto the said Master or Provost, Fellows, and Scholars of the said College, and their successors, that they are, and shall be now and at all times for ever hereafter, exempt, exonerated, discharged, and acquitted off and from the payment of all taxes, customs, and other duties whatsoever. And that the horses of the said Master or Provost, Senior Fellows, Professors, Tutors, and Fellows of the said College, shall not be taken to ride post.

And lastly, we do by these presents, grant unto the said Master or Provost, Fellows and Scholars of the said College, that they shall have these our letters patents in due manner made and sealed with our great Seal of England, without fine or fee, great or small, to be therefore paid to us, in our hanaper, or elsewhere to our use. In witness whereof, we have caused these our letters to be made patents. Witness ourself at Westminster, the fifteenth day of May, in the year of our Lord, one thousand six hundred and fifty seven.

By the writ of Privy Seal.

BEALE.*

* MS. Collections of my Reverend and worthy friend, Mr. T. Baker, S. T. B. vol. xiii. p. 259, &c. Taken from the original, in the custody of the Dean and Chapter of Durham.

"At the end of this charter, Mr. Baker has added what follows:—

"*De Universitate apud Dunelm.* As concerning the attempt for founding a University at Durham, the patent being drawn up and ingrossed, and prepared for the Seal, a petition was presented to Richard, then Protector, from both the Universities of Cambridge and Oxford, against it, and some were sent up from both Universities, to give reasons against a third University, and especially against conferring degrees there, which was much endeavoured by some. Whereupon a stop was put to it." See Dr. Grey, on *Neal* (1739); *Appendix*, pp. 111—125.

"A third University, though in the Metropolis, had been proposed, in 1648, in a letter from W. P. to Hartlib, to whom Milton had addressed his Tractate on Education.

This Letter, by Sir William Petty, proposing "the advancement of some particular parts of learning," anticipates many of the advantages to be expected, among the felicities of the present age, from "the University of London." A school for all, is also proposed, "none being to be excluded, by reason of the poverty and inability of their parents, for hereby many are now holding the plough, which might have been made fit to steer the state."

END OF THE SECOND VOLUME.

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